



Judge Cecilia A. Horan
50 West Washington Street, Room 2008
Chicago, Illinois 60602
Email: cboran07@gmail.com
Phone: (773) 497-3953

April 22, 2022

Re: Jonathan Lippner, Letter of Recommendation

Dear Judge:

I write this letter in enthusiastic support of Jonathan Lippner's application for a clerkship in your courtroom. I sit in the General Chancery Division of the Circuit Court of Cook County, where I hear civil matters seeking equitable and other relief Jonathan worked for me as a judicial law clerk from March 2021 -April 2022.

My predecessor, Judge Sanjay Tailor, hired Jonathan shortly before my assignment to the General Chancery Division. Like Judge Tailor, I was impressed with Jonathan's background: he previously worked in the engineering field, and he graduated from the University of Illinois College of Law with honors while serving as Editor-in-Chief of the Law Review.

When I began working with Jonathan, I discussed with him the value legal employers place on attorneys who have the ability to thoroughly analyze legal issues. I have observed Jonathan mature and develop very nicely in this area. He gives global consideration to issues and forms his own well-founded opinions. We have had many discussions in which his perspective has required me to challenge my own thought processes.

What follows are some of my observations about Jonathan and his contributions to my courtroom:

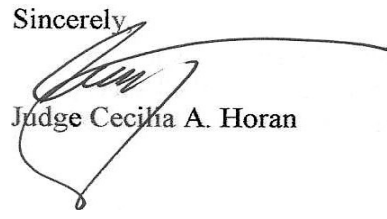
- He has a good fundamental grasp of insurance coverage issues and seems to enjoy the intellectual challenge of that area of practice. He assisted me in researching issues and drafting written opinions in several cases involving claims for insurance coverage for business losses due to COVID-19, which is a developing area of law around the country. In addition, he immersed himself in the many briefs and multitudinous exhibits in a case where coverage for environmental clean-up of a former paper mill was in issue.
- He keeps abreast of the developing law involving the Illinois Biometric Information Privacy Act ("BIPA"). He assisted me in researching legal issues and drafting written opinions in several cases involving consumer class action lawsuits under BIPA

- He has a comprehensive understanding of the role of the Circuit Court, and varying standards of review that apply, in petitions for administrative review and complaints founded on denial of Illinois Freedom of Information Act requests.
- He has gained expertise on the constitutional doctrine of separation of powers, which became an issue in a high-profile case involving bribery of an elected official by energy provider Commonwealth Edison. He assisted me in drafting the order dismissing the lawsuit on that basis.
- He has a very strong command of Bluebook citation rules, and is an excellent proofreader and editor.

Additionally, Jonathan undertook the various and abundant administrative tasks necessary to run our busy calendar with diligence and care. He has been nothing but pleasant, respectful and professional to me, the court staff, the attorneys and the litigants. I found him to be a team player with a good attitude who worked well with his colleagues.

I am confident that Jonathan has a bright future ahead and would be a real asset to your courtroom. Please do not hesitate to contact me if you should have any questions.

Sincerely,


Judge Cecilia A. Horan

University of Illinois College of Law
504 E. Pennsylvania Ave.
Champaign, IL 61820

May 12, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

It is with great pleasure that I write to support Jonathan Lippner's application for a judicial clerkship following his graduation from the University of Illinois College of Law. Because Jonathan is a tremendously hardworking and motivated individual with exceptional legal skills, I highly recommend him for this position.

For the past two academic years -- as a student in my Legal Writing & Analysis and Introduction to Advocacy courses during his first year of law school and then as one of my teaching assistants for both of these courses during his second year -- I have had the opportunity to become quite familiar with Jonathan's many talents and strengths. Perhaps most significantly, he has excellent legal research, writing, analysis, and advocacy skills. In the office memos and briefs he drafted in my first-year courses, he demonstrated his ability to effectively analyze complex legal issues, including a difficult federal statutory interpretation question, and to convey the necessary information in a concise and well-organized manner. During this time Jonathan also stood out as an extremely hardworking individual with great enthusiasm for the study of law and respect for the importance of good legal writing.

Based on his terrific performance in Legal Writing & Analysis and Introduction to Advocacy, I selected Jonathan to be a teaching assistant in both of these courses as a second-year student. He continued to impress me in this role, particularly with regard to his work ethic and ability to work with others. Jonathan possesses some of the most important qualities of a successful teaching assistant: he is knowledgeable, dependable, respectful, and dedicated to helping others. As a result, he excelled in this position and became a trusted advisor to many first-year students striving to improve their legal writing.

Jonathan was a pleasure to have both as a student and as a teaching assistant. Thus, I was not at all surprised to learn that his peers had elected him to be Editor-in-Chief of the University of Illinois Law Review. I am also confident that he would be an outstanding judicial clerk. If I can elaborate on any of these comments or answer any questions, please do not hesitate to contact me at (217) 333-1046.

Very truly yours,

Shannon M. Moritz
Director of Legal Writing

Shannon Moritz - smmoritz@illinois.edu - (217) 244-7912

Jonathan Lippner

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Writing Sample

Attached please find a copy of a draft memorandum order granting summary judgment for the Plaintiff, which I prepared during my clerkship with Judge Cecilia A. Horan in the Circuit Court of Cook County, General Chancery Division. This lawsuit concerns an action to quiet title, and the Defendants asserted they were the true owners of the property based on the *bona fide* purchaser doctrine of the Conveyances Act. Judge Horan adopted the analysis herein, and she provided permission to use this draft as a writing sample. This draft has not been edited by others.

MEMORANDUM ORDER

This matter comes before the Court on the Motion for Summary Judgment of Plaintiff, Natividad Almazan (“Almazan”), and the Cross-Motions for Summary Judgment of Defendants, Olimpiu Gabriel Sarac and Simona Brad (collectively “Sarac and Brad”), and 7354 Corp and Greens 400 LLC (collectively “7354 Corp”). The matter having been fully briefed and arguments having been heard, the Court hereby finds as follows:

I. Introduction

This dispute concerns the ownership of a three-flat residential building located at 2835 Sacramento Avenue, Chicago, Illinois (the “Property”). In 1998, the original sellers of the Property, Luis Campos and Carmen Campos (collectively the “Camposes”), conveyed the Property to Almazan. Several years later, based on Attorney John Klytta’s legal advice that they still owned the Property, the Camposes conveyed the property to 7354 Corp, which then conveyed it to Sarac and Brad. Almazan filed the instant Amended Verified Complaint to Quiet Title claiming that she is the rightful title holder of the Property. Sarac and Brad asserted the affirmative defense that they are *bona fide* purchasers for value without notice of Almazan’s interest in the Property. The issue before the Court is whether Almazan or Sarac and Bard are the legal title holders of the Property.

II. Statement of Undisputed Facts**A. The Camposes’ First Conveyance: The Installment Agreement**

On June 10, 1998, Almazan executed an Installment Agreement for Warranty Deed (“Installment Agreement”) to purchase the Property from the Camposes, who were in the midst of a divorce. On June 17, 1998, Almazan recorded the Installment Agreement with the Cook County Recorder of Deeds.

The total purchase price was \$108,897, which was the sum of Almazan’s initial \$8,776 payment and the outstanding balances of two mortgages that the Camposes owed to their

mortgagees, GMAC Mortgage Company and American General Finance. The Installment Agreement required Almazan to directly pay the Camposes \$1,320 monthly, and the final payment was due by the July 1, 2003 expiration date. If Almazan breached any obligation, the Camposes could exercise their option to void the Installment Agreement by filing a declaration of forfeiture with the recorder's office. Upon satisfaction of the Installment Agreement's terms, Almazan would receive a warranty deed to the Property.

Almazan received possession of the Property immediately after executing the Installment Agreement. Since that time, she paid all real estate taxes and leased the Property to renters. Rather than directly paying the Camposes, Almazan paid the Camposes' mortgagees. She paid off the American General Finance balance in 1999, but she did not pay off the GMAC Mortgage Company balance until 2007. The Camposes took no steps to exercise their option to void the Installment Agreement.

Almazan lost contact with the Camposes for several years after she executed the Installment Agreement. She located them in January 2015 after effectuating service of process on Luis Campos in a prior action to quiet title. On January 9, 2015, in response to that prior lawsuit, the Camposes executed a quitclaim deed conveying the Property to Almazan. Almazan did not record a *lis pendens* at the time she filed the prior lawsuit, and she did not record her quitclaim deed until December 7, 2018.

B. The Camposes' Second Conveyance

1. The 7354 Corp Deed

John Klytta is an Illinois licensed attorney, and he is the president and sole shareholder of 7354 Corp. In the Fall of 2018, Michael Garcia, who worked at Klytta's law office, set up a meeting between Klytta and Luis Campos to discuss the Property. Luis told Klytta about the Installment

Agreement with Almazan. Luis was unsure if he still had an ownership interest in the Property, so he asked Klytta to investigate because he was willing to sell any interest he had.

Klytta searched the Cook County Recorder of Deeds' website and reviewed the Installment Agreement. There was no deed on record pursuant to the Installment Agreement, and there was no *lis pendens* on record. Klytta did not attempt to contact Almazan or investigate the status of Almazan's payments, but he concluded the Camposes still owned the Property. Klytta informed Luis of his conclusion and discussed the potential sale with Carmen. The Camposes agreed to sell the Property for \$75,000. Luis and Carmen executed their own warranty deeds transferring each of their interest in the Property to 7354 Corp. Klytta recorded these deeds with the Cook County Recorder's Office on December 4, 2018, three days before Almazan recorded her deed to the Property.

2. The Sarac and Brad Deed

Sarac and Brad are business partners, and they are in the business of purchasing, rehabbing, and reselling real estate. They learned of the Property from Sarac's real estate agent and became interested in purchasing it. On November 14, 2018, Sarac and Brad entered into a real estate contract to purchase the Property from 7354 Corp for \$265,000.

The closing occurred on November 29, 2018, at Chicago Title Insurance Company's ("Chicago Title") office. In addition to his roles as 7354 Corp's president and its attorney for the closing, Klytta was the title agent for Chicago Title. In this role, he performed a title search to identify any title exceptions and sent his title review to Chicago Title's underwriter, who then issued a policy.

At the closing, Sarac and Brad were represented by real estate Attorney Alex Volkov. Volkov did not conduct a record search to confirm that no parties besides 7354 Corp had any interest in the Property.

The documents prepared by Chicago Title contained many errors. Several of the documents, including the exam summary and the master statement, listed the Camposes as the sellers. Additionally, the title commitment listed 7354 Corp as the proposed insured and the purchase price as \$20,000. A residential closer from Chicago Title assured Volkov, Sarac, and Brad that it would correct the errors and that they could still sign the documents as buyers. Volkov did not consider these errors significant because it was a cash closing.

On January 8, 2019, Chicago Title sent Volkov a corrected master statement, which identified 7354 Corp as the seller and listed all of the agreed-upon terms concerning the transaction. Sarac and Brad recorded their warranty deed on December 17, 2018.

III. Summary Judgment Standard

Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c); *Bluestar Energy Servs. v. Illinois Commerce Comm’n*, 374 Ill. App. 3d 990, 993 (1st Dist. 2007). In deciding whether a genuine issue of material fact exists, “the pleadings, depositions, admissions, exhibits, and affidavits are to be construed strictly against the movant and liberally in favor of the opponent.” *Delaney Elec. Co. v. Schiessle*, 235 Ill. App. 3d 258, 263 (1st Dist. 1992). When parties file cross-motions for summary judgment, it is an invitation for the court to decide the questions presented as a matter of law. *Carmichael v. Laborers’ & Ret. Bd. Emps.’ Annuity & Benefit Fund of Chicago*, 2018 IL 122793, ¶ 21. If, however, reasonable people could draw different inferences from the undisputed facts, then summary judgment is not appropriate. *Travelers Prop. Cas. Comp. of America v. ArcelorMittal USA Inc.*, 2019 IL App (1st) 180129, ¶ 11. Thus, summary judgment “should only be granted if the movant’s right to judgment is clear and free from doubt.” *Outboard Marine Corp. v. Liberty Mutual Ins. Co.*, 154 Ill. 2d 90, 102 (1992).

IV. Applicable Law

Section 28 of the Conveyances Act provides the following: “Deeds, mortgages, powers of attorney, and other instruments relating to or affecting the title to real estate in this state, shall be recorded in the county in which such real estate is situated.” 765 ILCS 5/28. The purpose of this section is to give third parties the opportunity to ascertain the status of title to real property.

Lubershane v. Village of Glencoe, 63 Ill. App. 3d 874, 879 (1978).

Section 30 of the Conveyances Act provides:

All deeds, mortgages and other instruments of writing which are authorized to be recorded, shall take effect and be in force from and after the time of filing the same for record, and not before, as to all creditors and subsequent purchasers, without notice; and all such deeds and title papers shall be adjudged void as to all such creditors and subsequent purchasers, without notice, until the same shall be filed for record.

765 ILCS 5/30. The purpose of this section is to protect subsequent purchasers against unrecorded prior instruments. *Farmers State Bank v. Neese*, 281 Ill. App. 3d 98, 106 (4th Dist. 1996).

Generally, “a *bona fide* purchaser of real property from the record owner acquires good title thereto free and clear of any interest therein except such interest of which he has notice.” *Burnex Oil Co. v. Floyd*, 106 Ill. App. 2d 16, 21 (1st Dist. 1969). “Notice may be actual or constructive and ‘contemplates the existence of circumstances or facts either known to a prospective purchaser or of which he is chargeable with knowledge which imposes upon such purchaser the duty of inquiry.’” *Schaffner v. 514 W. Grant Place Condo. Ass’n*, 324 Ill. App. 3d 1033, 1046 (1st Dist. 2001) (quoting *LaSalle Nat’l Bank v. 850 De Witt Condo. Ass’n*, 211 Ill. App. 3d 712, 719 (1st Dist. 1991)).

Actual notice is the knowledge the purchaser had at the time of the conveyance, and constructive notice is knowledge that the law imputes on a purchaser regardless of actual notice. *US Bank Nat’l Ass’n v. Villasenor*, 2012 IL App (1st) 120061, ¶ 59.

There are two types of constructive notice: record notice and inquiry notice. *Id.* A purchaser has record notice “where an instrument of conveyance or a mortgage is recorded in the appropriate public office.” *Sanaa Hachem & Chicago Title Land Trust Co. v. Chicago Title Ins. Co.*, 2015 IL App (1st) 143188, ¶ 26. A purchaser has inquiry notice when there is “notice of facts that would put a prudent man on inquiry [who] is chargeable with knowledge of other facts he might have discovered by diligent inquiry.” *Bank of New York v. Unknown Heirs & Legatees*, 369 Ill. App. 3d 472, 477 (1st Dist. 2006).

V. Analysis

The question presented is whether 7354 Corp, and Sarac and Brad, are *bona fide* purchasers without notice of the previous sale to Almazan. The Court agrees with Almazan that the 2015 quitclaim deed conveying the Property from the Camposes to her was effective upon delivery, and Almazan owned all equitable and legal rights in the Property since then. The Court, however, rejects Almazan’s argument that the existence of her property rights automatically voids the subsequent deeds conveying the Property to 7354 Corp, and Sarac and Brad. Almazan’s reasoning ignores the Conveyances Act. The existence of the 2015 quitclaim deed, in and of itself, is insufficient to protect her interest in the Property against all subsequent purchasers because she waited three years to record her deed. At a minimum, subsequent purchasers did not have record notice of her claim to title during this time period.

This does not end the analysis. For the reasons discussed below, the Court concludes that 7354 Corp, and Sarac and Brad, had constructive notice of Almazan’s interest in the Property.

A. Whether the Installment Agreement Provided Record Notice

Almazan argues that by recording the Installment Agreement, all parties had record notice of her interest in the Property. Defendants argue that they did not have notice because the terms of the Installment Agreement expired on July 1, 2003. Since there was no *lis pendens* or deed on

record when they purchased the Property, Defendants claim the Installment Agreement must have expired.

Defendants' argument is unpersuasive. No party disputes that the Installment Agreement was an enforceable contract upon execution. Under the equitable conversion doctrine, "when the owner of land enters into a valid and enforceable contract for its sale he continues to hold the legal title, but in trust for the buyer; and the buyer becomes the equitable owner and holds the purchase money in trust for the seller." *Lobo IV, LLC v. V Land Chicago Canal, LLC*, 2019 IL App (1st) 170955, ¶ 103 (quoting *Shay v. Penrose*, 25 Ill. 2d 447, 449 (1962)). Stated differently, after the execution of a purchase contract for real estate, the buyer becomes the equitable owner.

Additionally, a purchase contract is an instrument "authorized to be recorded" under Section 28 of the Conveyances Act because it relates to or affects title to real estate. *Id.* ¶ 37 (citing 765 ILCS 5/28). Although the Installment Agreement was not a deed, it creates an ownership interest in real estate, and it is "a legal reality for 'creditors and subsequent purchasers' . . . from the date it is recorded." *Id.*

The case of *United Community Bank v. Prairie State Bank & Trust*, 2012 IL App (4th) 110973 provides guidance on this issue. There, the buyers of real estate did not record the purchase contract after purchasing the property from the seller. *Id.* ¶ 3. After the execution of the purchase contract, Prairie State Bank obtained a money judgment against the seller, and it recorded the memorandum of this judgment as a lien on the property. *Id.* ¶ 10. When Prairie State Bank recorded the judgment, the buyer's purchase contract had not been recorded. *Id.* In the buyer's declaratory judgment action against Prairie State Bank, the court held that the unrecorded purchase contract "had no effect on Prairie State Bank's judgment lien" because Prairie State Bank lacked notice of this contract. *Id.* ¶ 39. Importantly, the court noted the buyer would have had a superior interest "only if the purchase contract [was] recorded before Prairie State Bank recorded its judgment lien

or only if Prairie State Bank otherwise had received notice of the purchase contract.” *Id.* ¶ 5. Simply put, Prairie State Bank would have been on record notice if the buyer recorded the purchase contract before Prairie State Bank recorded its judgment lien.

Here, Almazan recorded the purchase contract prior to the Camposes’ sale of the Property to 7354 Corp. Accordingly, when she recorded the Installment Agreement, Almazan put all subsequent purchasers on record notice of her interest in the Property, including 7354 Corp, and Sarac and Brad.

Notwithstanding the recording of the Installment Agreement, Defendants argue they did not have constructive notice of Almazan’s equitable ownership by virtue of the Installment Agreement. Since Almazan did not record her deed or a *lis pendens* before Defendants purchased the Property, Defendants claim they could infer the Installment Agreement expired on July 1, 2003. Defendants admitted that prior to this litigation, they did not know whether Almazan satisfied all payment obligations pursuant to the Installment Agreement.

Illinois law clearly instructs that “a purchaser’s default, absent a valid exercise of a seller’s option to declare a forfeiture, will not extinguish the parties’ duties to perform under the contract.” *Bocchetta v. McCourt*, 115 Ill. App. 3d 297, 299 (1st Dist. 1983). In *Bocchetta*, the purchaser entered into an installment agreement for warranty deed. *Id.* at 298. To perfect forfeiture in the event of the purchaser’s default, the agreement required the seller to file a written declaration of forfeiture with the recorder’s office. *Id.* After making an initial payment, the purchaser defaulted and the seller sold the property to a third party without filing a declaration of forfeiture. *Id.* The purchaser prevailed in his suit to recover the initial payment because the installment agreement was still in effect when the seller sold the property to a third party. *Id.* at 300–01. The court emphasized that the seller failed to follow the forfeiture provisions by not filing a declaration with the recorder’s office. *Id.* at 300.

Similarly, in *Hartman v. Hartman*, the purchase agreement regarding the subject property required the seller to file a written declaration of forfeiture with the recorder's office to perfect forfeiture. 2 Ill. App. 3d 163, 167–68 (1st Dist. 1971). After the plaintiff failed to make payments for twenty-three months, the defendant sought to void the plaintiff's rights in the property by serving the plaintiff with a notice of forfeiture, but the defendant did not record it. *Id.* at 167. In the plaintiff's lawsuit for specific performance, the court held that the defendant failed to take the necessary steps to declare a forfeiture because the defendant did not fully comply with the forfeiture provisions. *Id.* at 168.

Here, the forfeiture provisions of the Installment Agreement are identical to those in *Bocchetta* and *Hartman*. There is no dispute that the Camposes did not file a declaration of forfeiture with the recorder's office, so they did not exercise their option to perfect forfeiture. Since there was no compliance with the forfeiture provisions, the Installment Agreement remained in effect, and it was fully enforceable when 7354 Corp, and Sarac and Brad, purchased the Property. Regardless of whether Almazan defaulted on her payment obligations, the Court rejects Defendants' argument that they did not have record notice of Almazan's equitable interest due to the expiration date of July 1, 2003.

B. Whether Sarac and Brad Had Inquiry Notice

Almazan additionally argues that Sarac and Brad were on inquiry notice of her interest in the Property. The Camposes were the record owners of the Property when Sarac and Brad purchased it because 7354 Corp had not recorded its deed by that time. Moreover, several of the documents prepared by Chicago Title listed the Camposes, instead of 7354 Corp, as the sellers. Sarac and Brad argue they did not have inquiry notice of Almazan's interest because the Camposes previously purported to convey the Property to 7354 Corp.

The case of *Devon Bank v. Miller (In re County Collector)*, 397 Ill. App. 3d 535 (1st Dist. 2009) is on point. In that case, Devon Bank originally owned legal title to the subject property, but Checkmate Acquisitions purchased the property at a tax scavenger sale and received a deed from the circuit court. *Id.* at 537. Checkmate conveyed the property to Anchetta and Mendoza, who then conveyed the property to Miller. Anchetta and Mendoza did not record their deed until after they conveyed the property to Miller. *Id.* Devon Bank filed a petition seeking to void the tax deed by claiming that the circuit court lacked jurisdiction to enter it. *Id.* at 539. The court agreed with Devon Bank and voided the tax deed, but Miller contended that he was a *bona fide* purchaser without notice of Devon Bank’s interest in the property. *Id.* at 548. The court concluded that Miller had inquiry notice of Devon Bank’s interest because Anchetta and Mendoza were not record owners when Miller contracted to purchase the property and the title insurance policy indicated as such. *Id.* at 550. The court reasoned that “[t]hese facts should have put Miller on notice that there was an issue to be resolved,” and a reasonable purchaser would need to “make further inquiry regarding the title of the property.” *Id.* Miller was bound to investigate the property interests of Anchetta, Mendoza, and Checkmate. *Id.* These searches would have “disclosed [the] numerous deficiencies” of the tax deed proceedings. *Id.* The court held that Miller was not a *bona fide* purchaser and Devon Bank had a superior interest in the property over Miller. *Id.* at 551.

Similar to the subsequent purchasers in *Devon Bank*, Sarac and Brad did not purchase the Property from the record owners and there were several document errors at the closing. These facts should have put Sarac and Brad on inquiry notice that there were issues that needed to be resolved, and they should have made further inquiry regarding the chain of title. If Sarac and Brad had investigated both the Camposes’ and 7354 Corp’s interest in the Property, they would have discovered the sale to Almazan. As a matter of law, Sarac and Brad were on inquiry notice of Almazan’s interest when 7354 Corp purported to convey the Property to them.

C. Laches

Sarac and Brad assert the affirmative defense of laches. The equitable doctrine of laches “precludes the assertion of a claim by a litigant whose unreasonable delay in raising that claim has prejudiced the opposing party.” *Tully v. Illinois*, 143 Ill. 2d 425, 432 (1991). Sarac and Brad argue that Almazan failed to timely assert her rights since she waited eight years to obtain a quitclaim deed after she paid off the final mortgage on the Property. Additionally, Almazan waited over three years to record her deed.

Sarac and Brad’s argument fails for multiple reasons. First, Almazan timely recorded the Installment Agreement. Since the Camposes never exercised any right to declare a forfeiture, the entire world was on record notice of Almazan’s equitable interest in the Property. Second, there was no unreasonable delay on the part of Almazan. This action seeks to remove two clouds on title: the deed conveying the Property to 7354 Corp and the deed conveying the Property to Sarac and Brad. Almazan originally filed this action to quiet title on December 14, 2018, ten days after and three days before the recording of these respective deeds.

VI. Conclusion

For the reasons discussed above, the Court hereby finds as a matter of law that 7354 Corp, and Sarac and Brad, are not *bona fide* purchasers without notice of Almazan’s interest in the Property. The execution of the Installment Agreement conveyed to Almazan all equitable rights in the Property. The recording of the Installment Agreement provided record notice of Almazan’s interest to all subsequent purchasers. The 2015 quitclaim deed conveyed to Almazan all legal rights in the Property. Additionally, Sarac and Brad were on inquiry notice of Almazan’s interest in the Property since they did not purchase the Property from the record owners.

The following deeds are null and void and have no legal effect:

- The deed conveying the Property from Luis A. Campos to 7354 Corp, which was recorded on December 4, 2018;
- The deed conveying the Property from Carmen L. Campos to 7354 Corp, which was recorded on December 4, 2018; and
- The deed conveying the Property from 7354 Corp to Olimpu Gabriel Sarac and Simona Brad, which was recorded on December 17, 2018.

The Court confirms title to the Property to Almazan in fee simple, free and clear of the purported claims of Defendants 7354 Corp, Greens400, LLC, Olimpiu Gabriel Sarac, and Simona Brad. Almazan's Motion for Summary Judgment is granted, and Defendants' Cross-Motions for Summary Judgment are denied.

Applicant Details

First Name **John**
 Middle Initial **J**
 Last Name **Martin**
 Citizenship Status **U. S. Citizen**
 Email Address john.martin@columbia.edu

Address

Address

Street

550 2nd St., Apt. 1F

City

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State/Territory

New Jersey

Zip

07030

Country

United States

Contact Phone Number **6102972392**

Applicant Education

BA/BS From **New York University**
 Date of BA/BS **May 2016**
 JD/LLB From **Columbia University School of Law**
<http://www.law.columbia.edu>

Date of JD/LLB **April 29, 2021**

Class Rank **School does not rank**

Law Review/Journal **Yes**

Journal(s) **Columbia Law Review**

Moot Court Experience **Yes**

Moot Court Name(s) **Harlan Fiske Stone Moot Court**
Competition

Bar Admission**Prior Judicial Experience**

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Recommenders

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References

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 Supervisor of Spring 2021 internship at Campaign Legal Center.

Alex Abdo, Litigation Director
 Knight First Amendment Institute
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 Former colleague from Summer 2019 internship

**This applicant has certified that all data entered in this profile and
 any application documents are true and correct.**

JOHN MARTIN

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The Honorable John D. Bates
United States District Court
District of Columbia
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

March 17, 2022

Dear Judge Bates,

I am a legal fellow at the Brennan Center for Justice and a 2021 graduate of Columbia Law School. I write to apply for the position of Rules Law Clerk in your chambers to begin in August 2022.

While I plan to work as a litigator over the next few years, I ultimately hope to pursue a career in legal academia. Specifically, when I go on the entry-level hiring market, I plan to position myself as a candidate who can teach a variety of 1L courses, including civil procedure and potentially criminal procedure. Accordingly, I see immense value in this unique clerkship role. To engage critically with the federal rules and their proposed amendments in collaboration with the Standing Committee would, from my perspective, provide an unparalleled opportunity for me to further cultivate my expertise in these legal areas. Moreover, being able to partake in continuous legal and empirical research, as well as outreach with members of academia, would significantly bolster the academic credentials I need to obtain a law teaching position.

I am confident that I possess the skills necessary to be an effective Rules Law Clerk. For one, while not perfectly comparable to the federal rules process, I have firsthand experience with statutory and regulatory drafting. In my current fellowship, for example, I was tasked with analyzing New York State's public financing statutes for any errors that should be addressed. In this process, I met with state officials in both the senate and the governor's office. Combining their input and my research, I crafted a "fix" bill that a state senator just introduced into the senate last week. More generally, over the last four years, I have steadily developed strong legal research and writing skills. In particular, I participated in a variety of legal internships and a judicial externship during law school. I also served as a research assistant for law professors and legal writing tutor for first-year law students. Beyond this, I have authored four law review pieces and have coauthored multiple legal briefs, most recently a Supreme Court amicus brief. Lastly, I am quite comfortable with gaining proficiency in legal areas with which I have had little prior familiarity, a skill that seems essential for a Rules Law Clerk. For instance, last month my work required me to learn about the suspension and debarment process for federal contractors, despite knowing nothing about government contracts law. Within a couple weeks, I managed to accrue enough knowledge to engage in a fruitful conversation in a meeting with government contracts attorneys. Thus, despite knowing little about certain areas of the federal rules, such as bankruptcy, I can assure you that I possess the ability to attain sufficient expertise in them within a reasonable length of time. For all these reasons, I believe I would perform successfully as a Rules Law Clerk.

Enclosed please find a resume, law school transcript, and writing sample. Following separately are letters of recommendation from Professors Richard Briffault (212 854-2638, rb34@columbia.edu), Mark Barenberg (212 854-2260, barenberg@law.columbia.edu), and Lori Damrosch (212 854-3740, damrosch@law.columbia.edu). Thank you for your consideration. Please do not hesitate to contact me should you need any additional information.

Sincerely,



John Martin

JOHN MARTIN

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EDUCATION**COLUMBIA LAW SCHOOL**, New York, NY

Juris Doctor, received April 2021

Honors: Harlan Fiske Stone Scholar

Hamilton Fellow (full-tuition merit scholarship)

Parker School Recognition of Achievement (for achievement in international and comparative law)

Activities: *Columbia Law Review*, Articles Editor

Teaching Assistant to Professor Richard Briffault (Law of the Political Process, Fall 2020)

Research Assistant to Professors Sarah Cleveland & Amal Clooney (2020) (researched global media freedom)

CLS Writing Center, Fellow (tutored 1L and LLM students in legal writing)

ACLU Student Chapter, President

NEW YORK UNIVERSITY, New York, NYB.A., *magna cum laude*, in International Relations received May 2016; Minor in Economic Policy

Honors: Presidential Honors Scholar

Activities: *Economics Review at NYU*, Cofounder

Resident Assistant (2015–2016)

Study Abroad: NYU Abu Dhabi, United Arab Emirates (Spring 2014)

EXPERIENCE**BRENNAN CENTER FOR JUSTICE**, New York, NY

August 2021 – Present

Legal Fellow. Draft sections of briefs in multiple campaign finance cases, including an *amicus* brief filed in the ongoing U.S. Supreme Court case *FEC v. Cruz*. Regularly conduct research and write memoranda when needed on questions pertaining to the intersection of campaign finance and other areas of law. Evaluate and suggest changes to regulations being considered by the New York Public Campaign Finance Board. Draft federal legislative proposals to enhance the protection of state election officials.

CAMPAIGN LEGAL CENTER, Washington, DC

Spring 2021

Legal Intern. Conducted research and wrote memoranda on numerous campaign finance law questions. Contributed to research and formulation of legal arguments in federal litigation. Drafted testimony for legislative hearings in which CLC participated.

WINSTON & STRAWN LLP, New York, NY

Summer 2020

Summer Associate. Researched and summarized current no-poach antitrust jurisprudence to support litigation efforts. Wrote letters to the DOJ in a FOIA dispute. Led pro bono project to draft a document retention policy for a local nonprofit organization.

HON. ROBERT D. SACK, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT, New York, NY

Spring 2020

Judicial Extern. Drafted bench memoranda to prepare Judge Sack for oral arguments. Proofread summary orders to ensure that they adhered to the Bluebook and properly reflected the case law.

KNIGHT FIRST AMENDMENT INSTITUTE, New York, NY

Summer 2019

Legal Intern. Wrote memoranda overviewing First and Fifth Amendment issues that the Institute encountered in its constitutional challenge against prepublication review. Drafted portions of a district court brief. Determined which FOIA exemptions were worth disputing in a lawsuit against the DOJ. Participated in meetings to discuss future litigation opportunities and strategy.

U.S. DEPARTMENT OF JUSTICE, ANTITRUST DIVISION, Washington, DC

August 2016 – June 2018

Paralegal. Monitored prospective state and federal regulations that could result in anticompetitive harm to the U.S. economy, and worked with Division attorneys to communicate concerns to relevant legislators and departments. Analyzed documents received by parties within antitrust investigations to determine potential anticompetitive harm.

PUBLICATIONS*Danger Signs in State and Local Campaign Finance*, 74 ALA. L. REV. (forthcoming 2022).*Mail-In Ballots and Constraints on Federal Power Under the Electors Clause*, 107 VA. L. REV. ONLINE 84 (2021).Note, *Hacks Dangerous to Human Life*, 121 COLUM. L. REV. 119 (2021).

Self-Funded Campaigns and the Current (Lack of?) Limits on Candidate Contributions to Political Parties, 120 COLUM. L. REV. F. 178 (2020).

INTERESTS: French (conversational), Arabic (basic), weightlifting, drumming, skiing, urban exploration, cheesecake



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CLS TRANSCRIPT (Unofficial)

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Program: Juris Doctor

John J Martin

Spring 2021

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6670-1	Columbia Law Review		0.0	CR
L6231-2	Corporations	McCrary, Justin	4.0	A
L6546-1	Global Constitutionalism	Doyle, Michael W.	3.0	A
L6229-1	Ideas of the First Amendment [Minor Writing Credit - Earned]	Abrams, Floyd; Blasi, Vincent	4.0	A-
L8516-1	S. Election Law for Civil Rights Lawyers	Perez, Myrna	2.0	B+
L6683-1	Supervised Research Paper	Briffault, Richard	2.0	A

Total Registered Points: 15.0**Total Earned Points: 15.0**

Fall 2020

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6476-1	Advanced Constitutional Law: Separation of Powers	Monaghan, Henry Paul	3.0	B+
L6293-1	Antitrust and Trade Regulation	McCrary, Justin	3.0	B+
L6670-1	Columbia Law Review		0.0	CR
L6160-1	Law in the Internet Society	Moglen, Eben	2.0	B+
L6169-1	Legislation and Regulation	Merrill, Thomas W.	4.0	B+
L6680-1	Moot Court Stone Honor Competition	Richman, Daniel; Strauss, Ilene	0.0	CR
L6274-2	Professional Responsibility	Fox, Michael Louis	2.0	A
L6822-1	Teaching Fellows	Ginsburg, Jane C.	1.0	CR

Total Registered Points: 15.0**Total Earned Points: 15.0**

Spring 2020

Due to the COVID-19 pandemic, mandatory Credit/Fail grading was in effect for all students for the spring 2020 semester.

Course ID	Course Name	Instructor(s)	Points	Final Grade
L8518-1	Advanced Research Practicum in Global Media Freedom	Cleveland, Sarah; Sokoler, Jennifer B.; Yeginsu, Can	2.0	CR
L6670-1	Columbia Law Review		0.0	CR
L6241-1	Evidence	Capra, Daniel	4.0	CR
L6664-1	Ex. Federal Appellate Court	Parker, Barrington; Sack, Robert D.; Sokoler, Jennifer B.	1.0	CR
L6664-2	Ex. Federal Appellate Court - Fieldwork	Parker, Barrington; Sack, Robert D.; Sokoler, Jennifer B.	3.0	CR
L6473-1	Labor Law	Barenberg, Mark	4.0	CR
L9383-1	S. International Humanitarian Law	Rona, Gabor	2.0	CR

Total Registered Points: 16.0

Total Earned Points: 16.0

Fall 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6670-1	Columbia Law Review		0.0	CR
L6238-1	Criminal Adjudication	Richman, Daniel	3.0	B+
L6425-1	Federal Courts	Metzger, Gillian	4.0	A-
L6276-1	Human Rights	Cleveland, Sarah; Clooney, Amal	3.0	A-
L6474-1	Law of the Political Process	Greene, Jamal	3.0	A
L6675-1	Major Writing Credit	Damrosch, Lori Fisler	0.0	CR
L6683-1	Supervised Research Paper	Damrosch, Lori Fisler	2.0	A

Total Registered Points: 15.0

Total Earned Points: 15.0

Spring 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6133-2	Constitutional Law	Barenberg, Mark	4.0	B+
L6108-2	Criminal Law	Scott, Elizabeth	3.0	B
L6679-1	Foundation Year Moot Court	Strauss, Ilene	0.0	CR
L6269-1	International Law	Damrosch, Lori Fisler	3.0	A
L6121-1	Legal Practice Workshop II	Smith, Trisha	1.0	HP
L6118-1	Torts	Liebman, Benjamin L.	4.0	B

Total Registered Points: 15.0

Total Earned Points: 15.0

January 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6130-1	Legal Methods II: Methods of Persuasion	Genty, Philip M.	1.0	CR

Total Registered Points: 1.0**Total Earned Points: 1.0****Fall 2018**

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6101-4	Civil Procedure	Huang, Bert	4.0	A-
L6105-6	Contracts	Mitts, Joshua	4.0	B+
L6113-1	Legal Methods	Ginsburg, Jane C.	1.0	CR
L6115-1	Legal Practice Workshop I	Smith, Trisha; Whaley, Hunter	2.0	HP
L6116-1	Property	Merrill, Thomas W.	4.0	B+

Total Registered Points: 15.0**Total Earned Points: 15.0****Total Registered JD Program Points: 92.0****Total Earned JD Program Points: 92.0****Honors and Prizes**

Academic Year	Honor / Prize	Award Class
2020-21	Parker School Recognition of Achievement	3L
2020-21	Harlan Fiske Stone	3L
2019-20	Harlan Fiske Stone	2L

Pro Bono Work

Type	Hours
Mandatory	40.0

March 17, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

Recommendation of John J. Martin for Clerkship

I'm delighted to give my highest possible recommendation of John Martin for your clerkship. I have no doubt he'll make a great clerk. He has all the intellectual and personal qualities that count for the job. I encourage you to snap him up.

Mr. Martin served as the Articles Editor of the *Columbia Law Review* and was awarded Harlan Fiske Stone honors on the basis of grades alone.

I had the pleasure of seeing his intellectual power in action: as a student in my Constitutional Law course in Spring 2019 and Labor Law course in Spring 2020, as my research assistant in Spring 2020, and again as my research assistant on a different project in Fall 2020-Spring 2021.

He excelled in all four contexts. In my Constitutional Law and Labor Law courses, Mr. Martin's interjections were always constructive and smart, moving the discussion forward, raising intriguing original points, and building graciously on what other students and I had said. His exams were systematic, well crafted, and analytically sharp.

Mr. Martin came to my office hours frequently (in person and, later, via zoom) and I always looked forward to our long conversations. He's intellectually curious, concerned about the analytics of the cases and, equally, the implications of the law for ordinary people's lives, for the rule of law, and for justice.

It was as my research assistant that I got to know Mr. Martin particularly well. In spring 2020, when the plague descended, he volunteered to assist me on a project investigating the free speech rights of government workers whose employers punished them for protesting about on-the-job exposure to the virus, and about the exposure of customers, patients, and the community. The law in this area is about as contorted as it gets. His research was terrific—thoroughly researched, lucidly explained, and reliable. I emphasize "reliable," because, frankly, I find that as good as my Columbia research assistants are, I typically have to follow up with pretty time-consuming re-plowing of the field, to check for comprehensiveness and accuracy. With Mr. Martin, I became confident that I did not need to re-till in that way, even in such a difficult area. That was wonderful. For that reason, I was happy when he volunteered to assist with another project in fall 2020 and again in spring 2021. We were designing legislation and institutions to incorporate channels for worker voice in a major sector of the economy in its reconstruction during and after the pandemic—an even more complex clump of research. Again, his work was energetic, agile, smart, and reliable. (I wish I could give more details about his role, but for reasons of attorney-client privilege, I can't.)

Working with Mr. Martin was also a pleasure in personal terms. He's a mild-mannered, wry, and cheerful collaborator. He takes supervision well, he's responsive, and he's proactive in suggesting new directions in substance and in source material. He's self-motivated, and knows when to come for supervision and direction.

It was a pleasure to have several lengthy one-on-one zoom conversations with him about family, politics, and life. He stayed cheerful during the pandemic, even though his parents are in a tough stretch. John's working-class background is at the core of his identity and his concern for the impact of the law on the people it affects.

So, again, I give Mr. Martin my highest possible recommendation. As I said at the top, he has all the qualities that count for being a top-notch clerk and a great asset to your chambers. You can't go wrong with him.

Sincerely,

Professor Mark Barenberg
Isador and Seville Sulzbacher Professor of Law
Columbia Law School
New York City

Mark Barenberg - barenberg@law.columbia.edu - 212-854-2260

COLUMBIA LAW SCHOOL
435 West 116th Street
New York, NY 10027

March 17, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Re: John Martin

Dear Judge Bates:

I am writing on behalf of John Martin of the Columbia Law School Class of 2021, who is applying to you for a clerkship. John has a strong Law School record. He is very smart, focused, hard-working, a thorough researcher, and a clear and careful writer. He will make an excellent law clerk.

I know John primarily from his work for me as a teaching assistant for my course on the Law of the Political Process in the Fall 2020 term, and from supervising his independent re-search project on the evolving law of campaign contribution restrictions. As a TA, John was consistently prepared, well-organized and professional. Being a TA during that COVID-19 semester was a particular challenge, as the course was being taught "hybrid." I was in the classroom, masked, with about eighteen students, and the other forty-four were simultaneously on Zoom. John's role was essential in managing the combination of in-class and Zoom technology, fielding student questions, and running breakouts and polls. He also conducted Zoom office hours for students. He did this all professionally, patiently, and seamlessly, and his work was essential to the course's success.

John is intellectually curious, and has excellent research, writing, and analytical skills. His short piece in the Virginia Online Law Review on Mail-in Ballots and the Elections Clause came out of an original idea of his and some probing questions he asked me after a session of the Political Process class in which he was a teaching assistant. His supervised research paper on campaign contribution limits pulled together history, a close examination of legal doctrine, and careful study of current campaign finance practices. His writing was particularly nuanced in parsing standards of review and the elements of a multi-part test articulated in a Supreme Court case. He is a very careful reader of cases and a point he raised in the paper got me to see a recent Supreme Court decision in an entirely new light. Although plainly interested in the political and law reform context of election law and especially campaign finance law, John consistently approaches these issues as a lawyer's lawyer – mastering the cases and doctrine, teasing out the implications, and focusing and on the unresolved and unanswered questions.

John had an excellent record at Columbia. He was honored as a Harlan Fiske Stone Scholar in both his second and third years of Law School, which surely puts him in the top quarter of his class. He also received a certificate of achievement from the Parker School, which testifies to his interest in international law. In addition to his strong performance in the classroom, John was an Articles Editor of the Columbia Law Review, which reflects his fellow editors' recognition of his organizational skills and dedication. He was also a teaching assistant or research assistant to three of my colleagues, again demonstrating his research, writing, and analytical strengths across a wide range of subjects. John has also had significant practice experience as a legal intern at the Campaign Legal Center, and, starting this year, at the Brennan Center for Justice.

John has a sharp, probing mind, a strong work ethic, and excellent research and writing skills. He has a low-key, modest personality, with a good sense of humor. He is very easy to work with, and eager to be helpful. Based on his academic record, his analytical ability, and his personal qualities, I am sure he will make an excellent law clerk. Please call me at 212-854-2638 if I can be of any further assistance to you in assessing John Martin's application.

Sincerely,

Richard Briffault
Joseph P. Chamberlain Professor of Legislation

Richard Briffault - richard.briffault@law.columbia.edu - 212-854-2638

March 17, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am delighted to recommend my former student John Martin, a member of the Columbia Law School JD class of 2021, for a clerkship in your chambers. He is highly qualified for any top clerkship in the country and I support him enthusiastically.

In John's three years at Columbia, I came to know him in multiple capacities; and in each context, he impressed me with all the qualities for success in any legal position, including a clerkship. Soon after he arrived at Columbia Law School in the fall of 2018, I was asked to become his faculty sponsor under the Hamilton Fellowship program, which offers a small number of incoming students a full-tuition merit-based scholarship and places them with a faculty member for ongoing mentorship. Because of John's interests in my own field of international law, I eagerly undertook to mentor him as a Hamilton Fellow and was very pleased that his curricular choices related to international law gave me the opportunity to work with him in the classroom and in the preparation of a supervised research paper.

In the spring semester of his first year of law school (spring 2019), John took my International Law course as an approved 1-L elective. Over most of my teaching career at Columbia, this course has been offered only to upper-division law students and advanced graduate students; only recently did the administration allow 1-Ls to enroll in International Law in their second semester. The course that John took was a medium-sized class of about 40 students, in which it was possible to get to know all the students personally and appreciate their different strengths. There were three bases of evaluation: (1) blind-graded examination, accounting for approximately half the grade; (2) class participation throughout the semester, and (3) a short research exercise on a topic involving international treaties. John excelled on all measures of evaluation and received the grade of "A" for the course – one of only a few such high grades awarded that semester. This performance is all the more impressive given that most students in the class were further along in their legal studies (including some with previous study of and experience in international law).

After completion of his 1-L year, John was accepted onto the Columbia Law Review; and in that capacity, he asked me to supervise his preparation of a draft note and also to work with him as supervisor of his major writing project. In light of his outstanding performance in my International Law class and the fact that his intended topic would be in the area of foreign sovereign immunity, I was happy to undertake these supervisory responsibilities. In fall 2019, he framed and refined the issue for the note, focusing on possible avenues for suing foreign states in U.S. courts for attacks on the cybersecurity of foreign dissidents located in the United States. The topic entails close examination of the Foreign Sovereign Immunities Act as recently amended by the Justice Against Sponsors of Terrorism Act, with a view to determining whether the ordinary presumption of foreign sovereign immunity could be overcome in the case of cyber intrusions jeopardizing the privacy, security, and perhaps even the life of a target of such an attack. The result is an excellent paper, which was published by the Columbia Law Review in January of 2021, with the title "Hacks Dangerous to Human Life." Based on its high quality, I awarded it the grade of "A" for two points of academic credit in fall 2019 and also certified it in fulfillment of the JD major writing requirement.

The note deals with the availability of legal remedies against governments that interfere with freedom of expression of dissidents by hacking their communications. It shows John's capabilities for researching and analyzing cutting-edge legal issues and presenting original insights in a well-written and persuasive way. Significantly, the note has already been cited in at least one petition for certiorari to the U.S. Supreme Court, in a case seeking to pierce the sovereign immunity of a foreign state allegedly involved in a cyberattack on U.S. citizens.

John earned academic honors at the Harlan Fiske Stone Scholar level twice and received recognition at graduation from Columbia's Parker School for his achievements in international and comparative law. He continued to deepen his knowledge of the protection of free expression in international and U.S. law through his course of study in his second and third years of law school. He likewise remained engaged in research and writing through his work as an articles editor of the Law Review and other co-curricular and extracurricular activities, with continued success in preparing and placing legal articles for publication.

John is well-equipped for a clerkship by virtue of his experience as an extern with the U.S. Court of Appeals for the Second Circuit during his second year of law school and his fellowship after graduation with the Brennan Center for Justice in its Election Reform Program. He is deeply committed to a public interest career.

He is superbly qualified for a clerkship and I commend him to you with great enthusiasm.

Sincerely yours,

Lori Fisler Damrosch

Lori Damrosch - damrosch@law.columbia.edu - 212-854-3740

Lori Damrosch - damrosch@law.columbia.edu - 212-854-3740

JOHN MARTIN

550 2nd St., Apt. 1F • Hoboken, NJ 07030 • (610) 297-2392 • john.martin@columbia.edu

Writing Sample — Forum Piece

This writing sample is a piece that I published in the *Columbia Law Review Forum*. It discusses a loophole in federal campaign finance law that came to light in the 2020 election, under which self-funded candidates are able to donate unlimited amounts of money to political parties. The piece provides statutory, regulatory, and case law analyses of the loophole and proposes a legislative solution. While the *Columbia Law Review*'s editors lightly edited the piece's footnotes to conform with the law review's unique citations guidelines, nobody aside from myself substantively contributed to or edited this piece.

COLUMBIA LAW REVIEW FORUM

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SELF-FUNDED CAMPAIGNS AND THE CURRENT (LACK OF?) LIMITS ON CANDIDATE CONTRIBUTIONS TO POLITICAL PARTIES

*John J. Martin**

INTRODUCTION

Federal campaign finance law currently prohibits individuals from donating more than \$35,500 per year to national political party committees.¹ Yet, in March 2020, former New York City Mayor Michael Bloomberg gave \$18 million to the DNC.² How was he able to do this? The answer is simple: Mayor Bloomberg donated his \$18 million not as an individual, but as a presidential candidate.³ Under federal campaign finance regulation, candidate committees may transfer their funds “without limitation” to party committees.⁴ Normally, this is not an issue, as most candidates raise their campaign funds through outside contributions that are already subject to existing campaign finance limits.⁵ But when a candidate self-funds their campaign—as Mayor Bloomberg did⁶—they are seemingly able to evade the limits on individual contributions to political parties.

* J.D. Candidate 2021, Columbia Law School. Thank you to Professor Richard Briffault for helping me get this started.

1. Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 85 Fed. Reg. 9772, 9774 (Feb. 13, 2020); Contribution Limits for 2019–2020 Federal Elections, FEC, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits> [<https://perma.cc/FD8B-ZRSY>] (last visited May 20, 2020).

2. Mark Niquette, Michael Bloomberg Campaign Transfers \$18 Million to DNC to Beat Trump, Bloomberg (Mar. 20, 2020), <https://www.bloomberg.com/news/articles/2020-03-20/bloomberg-campaign-transfers-18-million-to-dnc-to-beat-trump> [<https://perma.cc/5W3Z-TH7G>].

3. See Ali Vitali & Stephanie Ruhle, Michael Bloomberg Launches 2020 Presidential Bid, NBC News (Nov. 24, 2019), <https://www.nbcnews.com/politics/2020-election/michael-bloomberg-launches-2020-presidential-bid-n1090216> [<https://perma.cc/32Q2-UASZ>].

4. 11 C.F.R. § 113.2(c) (2020) (“[F]unds in a campaign account . . . [m]ay be transferred without limitation to any national, State, or local committee of any political party . . .”).

5. See, e.g., 52 U.S.C. § 30116(a) (1) (A) (2018) (limiting the amount individuals can donate to federal candidates).

6. See Nicholas Wu, Michael Bloomberg’s Campaign Was the Most Expensive Self-Funded Campaign in History, USA Today (Mar. 4, 2020), <https://www.usatoday.com/story/news/politics/elections/2020/03/04/michael-bloomberg-most-expensive-self-funded-campaign/4952458002> [<https://perma.cc/X5E2-EZ2L>] (last updated Mar. 5, 2020).

Now dubbed the “Bloomberg loophole” by critics,⁷ some argue that such a loophole does not truly exist within the statutory text of the Federal Election Campaign Act (FECA), and have issued a rulemaking petition urging the FEC to amend its regulations to better reflect “the spirit of the law.”⁸ In response, the FEC stated in June 2020 that it will consider the merits of the petition, which could ultimately result in a rulemaking proceeding to close the loophole.⁹ This is, however, far from a guarantee, due to both the current political makeup of FEC commissioners¹⁰ and the ambiguous nature of these laws.¹¹ Furthermore, with the FEC constantly losing quorum,¹² it remains unknown just how long it could take to get an answer from the Agency. Thus, for the foreseeable future, this anomaly in federal campaign finance law leaves open a dangerous opportunity for self-funded candidates to flex their wealth in exchange for favors from political parties and their candidates.

Accordingly, this Piece calls for an unambiguous legislative solution to fill in the gap that allows this loophole to endure, under which self-funded candidates would be permitted to contribute only as much of their

7. See Brendan Fischer, Close the Bloomberg Big Money Loophole, Campaign Legal Ctr. (Mar. 26, 2020), <https://campaignlegal.org/update/close-bloomberg-big-money-loop-hole> [<https://perma.cc/SY4E-6PTV>] (“This apparently accidental loophole is one that the [FEC] and Congress both have the power to close, and they should.”).

8. Letter from Michael Boos, Exec. Vice President & Gen. Couns., Citizens United and Citizens United Found., to Lisa J. Stevenson, Acting Gen. Couns., FEC 2–4 (Apr. 8, 2020), <https://sers.fec.gov/fosers/showpdf.htm?docid=410512> [<https://perma.cc/6DQD-G5MY>].

9. See Rulemaking Petition: Transfers from Candidate’s Authorized Committee, 85 Fed. Reg. 39,098, 39,098 (June 18, 2020).

10. See Michelle Ye Hee Lee, Senate Confirms Trump Appointee to Federal Election Commission, Restoring Panel’s Voting Quorum for First Time Since August, Wash. Post (May 19, 2020), https://www.washingtonpost.com/politics/senate-confirms-trump-appointee-to-federal-election-commission-restoring-panels-voting-quorum-for-the-first-time-since-august/2020/05/19/de94796c-99e4-11ea-ac72-3841fcc9b35f_story.html (on file with the *Columbia Law Review*) (noting that recent FEC appointee James E. “Trey” Trainor III “has pushed for less regulation of money in politics”).

11. See, e.g., Fischer, *supra* note 7 (“So why is a candidate’s personal spending on their own campaign, which is otherwise an ‘expenditure,’ treated as a ‘contribution’? Because the FEC has advised candidates to disclose personal funds in the ‘contribution’ section of campaign finance reports.”); see also *infra* notes 63–68 and accompanying text.

12. See, e.g., Kate Ackley, FEC Set to Lose Its Quorum Again, Roll Call (June 26, 2020), <https://www.rollcall.com/2020/06/26/fec-set-to-lose-its-quorum-again> [<https://perma.cc/LZ29-47TR>] (noting that Commissioner Caroline Hunter planned to depart the FEC in July 2020, less than two months following Commissioner Trainor’s appointment); see also Arit John, The Federal Agency that Enforces Campaign Finance Laws Can’t Even Meet. Why?, L.A. Times (Aug. 5, 2020), <https://www.latimes.com/politics/story/2020-08-05/federal-election-commission-campaign-finance-enforcement> (on file with the *Columbia Law Review*) (“The FEC has lacked a quorum only three times since it began operating in 1975: during a six-month period in 2008, from late August 2019 to May 2020, and from July 4, 2020, to the present.”).

personal funds to a political party as currently allowed for a regular individual under existing limits. Part I briefly overviews federal campaign finance law, focusing on the limits on individual contributions to party committees and the arguable lack of limits on candidate committee contributions to party committees. Part II discusses the growing prominence of self-funded campaigns in U.S. politics and the threat of quid pro quo corruption that such campaigns pose under existing regulation. Finally, Part III discusses the merits of the rulemaking petition issued to the FEC to close the Bloomberg loophole, proposes a legislative amendment to FECA as a robust prophylactic solution, and addresses the constitutionality and political consequences of limiting the amount that self-funded candidates may donate to political parties.

I. THE LAW AND RATIONALE BEHIND CURRENT CONTRIBUTION LIMITS

This Part provides an overview of the current state of federal campaign finance law—and the rationales behind the existing laws—focusing particularly on limits on contributions to political parties. Section I.A overviews the general constitutional framework for campaign finance law that the Supreme Court established in *Buckley v. Valeo*. Section I.B then elaborates further on the law and rationale behind the limits on individual contributions to political parties. Finally, section I.C discusses the current state of limits on candidate committee contributions to political parties and different interpretations of existing law pertaining to said limits.

A. *The Buckley Framework*

The general framework for campaign finance law in the United States traces back to 1976, to the Supreme Court's seminal case *Buckley v. Valeo*.¹³ In *Buckley*, the Court determined the constitutionality of the FECA Amendments of 1974,¹⁴ which limited (1) the amount that individuals and organizations could contribute (i.e., donate) to political candidates and parties,¹⁵ and (2) the amount of expenditures, both independent or coordinated,¹⁶ that individuals and organizations could make in support of a candidate for federal office.¹⁷ The government justified both limits under

13. 424 U.S. 1 (1976).

14. See *id.* at 6.

15. See Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, sec. 101(a), 88 Stat. 1263, 1263-64, amended by Federal Election Campaign Act Amendments of 1976, Pub. L. No. 94-283, sec. 112, § 320(a), 90 Stat. 475, 486-88 (codified as amended at 52 U.S.C. § 30116(a) (2018)).

16. The difference between “independent” and “coordinated” expenditures is that “coordinated” expenditures are made “in cooperation with or with the consent of a candidate, his agents, or an authorized committee of the candidate.” *Buckley*, 424 U.S. at 78.

17. Federal Election Campaign Act Amendments of 1974 sec. 101(a), 88 Stat. at 1265, repealed by Federal Elections Campaign Act Amendments of 1976 sec. 112, 90 Stat. at 486, 489 (omitting the subsection on expenditure limits from where it was originally included in the 1974 FECA Amendments).

a governmental interest in “the prevention of corruption and the appearance of corruption,” namely quid pro quo arrangements.¹⁸

The *Buckley* Court ultimately found the limits on independent expenditures to be unconstitutional on First Amendment grounds.¹⁹ The Court, however, upheld the contribution limits—including coordinated expenditure limits²⁰—despite their implication of “fundamental First Amendment interests.”²¹ The Court reviewed the contribution limits under what is now known as “*Buckley* scrutiny,”²² holding that the limits needed to be “closely drawn” to a “sufficiently important” governmental interest to pass constitutional muster.²³ Applying this standard, the Court found the government’s interest in fighting the “actuality and appearance” of quid pro quo corruption to be sufficiently important.²⁴ Moreover,

18. See *Buckley*, 424 U.S. at 25–26 (“[T]he Act’s primary purpose [is] to limit the actuality and appearance of corruption resulting from large individual financial contributions . . .”). The government also put forth two “ancillary” interests: equalizing “the relative ability of all citizens to affect the outcome of elections,” and equalizing the playing field for all candidates. See *id.* The Court, however, rebuked these interests, finding neither convincing enough to justify any contribution or expenditure limits. See *id.* at 48–49 (“[T]he concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment . . .”). Thus, the *Buckley* Court analyzed the constitutionality of contribution and expenditure limits predominantly through the lens of FECA’s “primary purpose”: preventing corruption and the appearance of corruption. See *id.* at 25–26.

19. See *id.* at 143. The Court found that the 1974 FECA Amendments’ expenditure limits, in limiting independent expenditures, “impose[d] far greater restraints on the freedom of speech and association than [did] its contribution limitations.” *Id.* at 44. Accordingly, the Court reviewed the expenditure limits under “exacting scrutiny,” comparable to today’s strict scrutiny. See J. Robert Abraham, Note, Saving *Buckley*: Creating a Stable Campaign Finance Framework, 110 Colum. L. Rev. 1078, 1083 (2010) (citing *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 347 (1995)). Under this “exacting scrutiny,” the Court found that the government’s anticorruption interest could not justify the 1974 FECA Amendments’ limits on independent expenditures, reasoning that independent expenditures present little opportunity for quid pro quo given that, by definition, “independent” spending lacks coordination. See *Buckley*, 424 U.S. at 47.

20. See *Buckley*, 424 U.S. at 46 (“[C]ontrolled or coordinated expenditures are treated as contributions rather than expenditures under the Act.”).

21. *Id.* at 23.

22. See, e.g., *Fed. Election Comm’n v. Colo. Republican Fed. Campaign Comm.* (*Colo. Republican II*), 533 U.S. 431, 466 (2001) (Thomas, J., dissenting) (“*Buckley* scrutiny has meant that restrictions on contributions by individuals and political committees do not violate the First Amendment so long as they are ‘closely drawn’ to match a ‘sufficiently important’ government interest . . .”); Nathaniel Persily & Kelli Lammie, Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law, 153 U. Pa. L. Rev. 119, 126 (2004) (“[C]ontribution restrictions are subject to less-than-strict scrutiny (sometimes called ‘*Buckley* scrutiny’).” (footnote omitted)).

23. See *Buckley*, 424 U.S. at 25. The Court applied a less strict standard than it did for expenditure limits because the quantity of a contribution does not alter the perceptibility of the contributor’s “general expression of support for [a] candidate and his views.” *Id.* at 21; see also *supra* note 19. In other words, “The political speech at issue is the act of contributing, rather than the amount of the contribution.” Abraham, *supra* note 19, at 1082.

24. See *Buckley*, 424 U.S. at 26–27.

the Court found that the limits were closely drawn enough to avoid an unnecessary abridgement of First Amendment associational rights.²⁵

The *Buckley* Court thus left U.S. campaign finance law with the following framework: Independent expenditure limits are subject to strict scrutiny, and are generally considered unconstitutional.²⁶ On the other hand, contribution limits—including coordinated expenditure limits—are reviewed under the less strict *Buckley* scrutiny, under which a limit must be “closely drawn” to a “sufficiently important” governmental interest.²⁷ Post-*Buckley*, the Court has found only one interest to be sufficiently important enough to justify contribution limits: quid pro quo corruption.²⁸ Accordingly, for limits on political contributions or coordinated expenditure to be deemed constitutional in a post-*Buckley* world, they must serve a governmental interest in combatting the actuality or appearance of quid pro quo corruption.

B. *Limits on Individual Contributions to Political Parties*

FECA imposes dollar limits on the amount an individual may contribute to both national and state/local party committees,²⁹ and gives the FEC the exclusive authority to promulgate regulations to civilly enforce such limits.³⁰ As of 2020, the FEC allows individuals to contribute annually a maximum of \$35,500 to a national party committee,³¹ and \$10,000

25. See *id.* at 28–29 (noting that the limits “do not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties”).

26. See Abraham, *supra* note 19, at 1085 (“[T]he Court has repeatedly upheld limits on contributions while rejecting limits on political expenditures.”).

27. See *Buckley*, 424 U.S. at 25.

28. See *McCutcheon v. Fed. Election Comm’n*, 572 U.S. 185, 227 (2014) (plurality opinion) (“The Government has a strong interest, no less critical to our democratic system, in combatting corruption and its appearance. We have, however, held that this interest must be limited to a specific kind of corruption—*quid pro quo* corruption . . .” (italics in original)). The Court emphasized, however, that contribution limits can be prophylactic measures taken in anticipation of future corruption rather than simply measures reactive to previous and ongoing corruption. See *id.* at 221 (“[R]estrictions on direct contributions are preventative . . .” (quoting *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 357 (2010))).

29. See 52 U.S.C. § 30116(a)(1)(B)–(D) (2018).

30. See *id.* § 30106(b)(1).

31. Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 85 Fed. Reg. 9772, 9774 (Feb. 13, 2020); Contribution Limits for 2019–2020 Federal Elections, *supra* note 1. An individual may also contribute an additional \$106,500 annually to separate national party committee accounts used for (1) “the presidential nominating convention,” (2) “election recounts and contests and other legal proceedings,” and (3) “national party headquarters buildings.” *Id.* (allowing individuals to contribute up to \$319,500 annually if they max out contributions to all three accounts). Because such additional contributions are limited to those three specific purposes, rather than to party spending that could directly benefit a particular candidate or electoral race, the risk of corruption is low. See *Libertarian Nat’l Comm., Inc. v. Fed. Election Comm’n*, 317 F. Supp. 3d 202, 230–31 (D.D.C. 2018) (“Congress could have permissibly concluded

combined to both state/local party committees.³² While the contribution limit to state/local party committees is a fixed amount, the contribution limit to national party committees is indexed to increase in odd-numbered years to account for inflation.³³

These limits have withstood *Buckley* scrutiny. In *McConnell v. FEC*, for instance, the Supreme Court stated, “The idea that large contributions to a national party can corrupt or, at the very least, create the appearance of corruption of federal candidates and officeholders is neither novel nor implausible.”³⁴ The Court referred to political parties as “agents for spending on behalf of those who seek to produce obligated officeholders,”³⁵ highlighting specific examples of party donors reporting their “generosity” to party nominees with the “express purpose” of securing influence over them.³⁶ The *McConnell* Court concluded that “large soft-money contributions to national political parties give rise to corruption and the appearance of corruption.”³⁷

More recently, the D.C. Circuit upheld the limit on individual contributions to national party committees last year in *Libertarian National Committee, Inc. v. FEC*.³⁸ In this case, the Libertarian National Committee (LNC) challenged the contribution limit when a deceased party member had left over \$200,000 to be donated to the LNC upon his passing.³⁹ Unlike the *McConnell* Court, the D.C. Circuit explicitly recognized a risk of quid pro quo corruption within large individual contributions to political parties.⁴⁰ The D.C. Circuit explained that large individual contributions create an incentive for party committees to “limit the risk” of the revocation of such contributions.⁴¹ Accordingly, the party committee, its candidates, or its officeholders might “grant political favors” to individuals

that contributions to a political party that directly benefit a particular candidate or can be spent directly on a particular election contest pose an especially acute risk warranting a lower dollar limit.”). Accordingly, this Piece excludes the additional \$319,500 limit from its purview.

32. Contribution Limits for 2019–2020 Federal Elections, *supra* note 1.

33. 52 U.S.C. § 30116(c) (1) (B) (i).

34. 540 U.S. 93, 144 (2003).

35. *Id.* at 145 (quoting *Colo. Republican II*, 533 U.S. 431, 452 (2001)).

36. See *id.* at 145–47 (“Even when not participating directly in the fundraising, federal officeholders were well aware of the identities of the donors: National party committees would distribute lists of potential or actual donors, or donors themselves would report their generosity to officeholders.”).

37. *Id.* at 154.

38. 924 F.3d 533, 553 (D.C. Cir. 2019).

39. See *id.* at 536–37.

40. Compare *id.* at 542 (“The risk of quid pro quo corruption does not disappear merely because the transfer of money occurs after a donor’s death.”), with *McConnell*, 540 U.S. at 152–53 (“Justice Kennedy would limit Congress’ regulatory interest *only* to the prevention of the actual or apparent *quid pro quo* corruption Justice Kennedy’s interpretation . . . would render Congress powerless to address more subtle but equally dispiriting forms of corruption.” (*italics in original*)).

41. See *Libertarian Nat’l Comm.*, 924 F.3d at 542.

contributing large sums of money to the political party “in the hopes of preventing the individual from revoking” future contributions.⁴² The D.C. Circuit’s decision thus reinforced the constitutionality of limits on individual contributions to political parties, finding such limits to fit within the Supreme Court’s framework of quid pro quo corruption.

C. *The (Lack of?) Limits on Candidate Contributions to Political Parties*

Unlike individual contributions, contributions by candidate committees to party committees are currently unregulated by the FEC. Rather, 11 C.F.R. § 113.2 explicitly states that “funds in a campaign account . . . [m]ay be transferred without limitation to any national, State, or local committee of any political party.”⁴³ Accordingly, it would appear that there are no legal barriers preventing self-funded candidates from donating unlimited amounts of money to political parties. Unfortunately (or perhaps fortunately), it is a little more complicated than that.

To begin, in 2002, Congress passed the Bipartisan Campaign Reform Act (BCRA),⁴⁴ of which Title 1 had the express purpose of getting “soft money” out of party committee fundraising and spending.⁴⁵ Title 1 of BCRA thus amended FECA to include the limits on individual contributions to party committees that exist today.⁴⁶ BCRA contained a few key exceptions though, most notably exceptions for how candidate committees can spend their money.⁴⁷ These exceptions are codified in 52 U.S.C. § 30114, the statutory companion of 11 C.F.R. § 113.2. There are, nevertheless, key discrepancies between the statutory language of BCRA and current FEC regulations: Whereas 11 C.F.R. § 113.2 broadly states that “funds in a campaign account . . . [m]ay be transferred without limitation to any [political party],”⁴⁸ 52 U.S.C. § 30114 more narrowly states that “[a] contribution accepted by a candidate . . . may be used . . . for transfers, without limitation, to a [political party].”⁴⁹ While this difference in language may seem small, it could make all the difference in the world when it comes to self-funded candidates, and draws into question whether current FEC regulation properly reflects and enforces FECA’s statutory provisions relating to candidate committee contributions.

As the Campaign Legal Center explains in its June 2020 letter to the FEC, “A candidate’s personal funds expended in support of their

42. See *id.*

43. 11 C.F.R. § 113.2(c) (2020).

44. Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81.

45. See *id.* sec. 101.

46. For background information on limits on individual contributions to party committees, see *supra* section I.B.

47. See Bipartisan Campaign Reform Act sec. 301, § 313, 116 Stat. at 95–96.

48. 11 C.F.R. § 113.2(c).

49. 52 U.S.C. § 30114(a)(4) (2018) (emphasis added).

campaign are not ‘contribution[s] accepted by a candidate.’”⁵⁰ Rather, the Supreme Court and the FEC have both historically referred to self-funded spending by candidates as “expenditures” rather than “contributions.”⁵¹ Thus, according to critics of the Bloomberg loophole,⁵² because 52 U.S.C. § 30114 only explicitly permits “contributions accepted by a candidate” to be transferred without limitation to party committees, as opposed to also including “expenditures” in its language, self-funded portions of a candidate committee’s funds are not subject to this “without limitation” exception. Instead, critics assert that a candidate’s committee is prohibited by statute from transferring the candidate’s personal funds to a party committee, citing Title 1 of BCRA’s bar on political parties receiving any funds “not subject to the limitations, prohibitions, and reporting requirements” of FECA.⁵³ In other words, because candidates’ personal funds have historically been regarded as “expenditures” rather than “contributions,”⁵⁴ and because candidates’ personal funds are not subject to any FECA limits,⁵⁵ critics of the Bloomberg loophole believe that the FEC’s current lack of regulatory limits on self-funded candidates’ contributions to national party committees⁵⁶ does not align with what BCRA’s statutory provisions were intended to prevent: political parties receiving unregulated “soft money” donations.⁵⁷ Using this argument, Citizens United petitioned the FEC in April 2020 to issue a rulemaking decision to close the loophole.⁵⁸

This textually driven argument, while certainly full of merit, has its weaknesses. For one, while the FEC has at times referred to a candidate’s spending of personal funds as “expenditure,”⁵⁹ the Agency currently requires candidates to report any spending of personal funds as “in-kind

50. Letter from Brendan M. Fischer & Tony Dechario, Campaign Legal Ctr., to Lisa J. Stevenson, Acting Gen. Couns., FEC 2 (June 19, 2020), <https://campaignlegal.org/sites/default/files/2020-06/6-19-20%20CLC%20comments%20AOR%202020-03.pdf> [https://perma.cc/43PT-VZD3] (alteration in original).

51. See *Buckley v. Valeo*, 424 U.S. 1, 51–54 (1976) (“The ceiling on personal expenditures by candidates on their own behalf . . . imposes a substantial restraint on the ability of persons to engage in protected First Amendment expression.” (emphasis added)); 11 C.F.R. § 110.10 (“[C]andidates for Federal office may make unlimited expenditures from personal funds . . .” (emphasis added)). For an explanation on the difference between “expenditures” and “contributions,” see *supra* notes 15–17 and accompanying text.

52. See *supra* note 7 and accompanying text.

53. 52 U.S.C. § 30125(a)(1); see also Letter from Brendan M. Fischer & Tony Dechario to Lisa J. Stevenson, *supra* note 50, at 3.

54. See *supra* note 51.

55. See *Buckley*, 424 U.S. at 51–54 (striking down such a limit as unconstitutional).

56. See 11 C.F.R. § 113.2(c).

57. See Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-555, sec.101, 116 Stat. 81, 82.

58. See Letter from Michael Boos to Lisa J. Stevenson, *supra* note 8, at 2–3 (“While Bloomberg’s transfer may fall within the letter of the regulation governing transfers of candidate funds to national political party committees[,] it certainly does not fall within the spirit of the law.”). For more information on this, see *infra* section III.A.

59. See, e.g., 11 C.F.R. § 110.10.

contribution[s] from the candidate to [their] committee.”⁶⁰ This suggests that the FEC perhaps harbors some uncertainty about whether spending of personal funds can simply be regarded as expenditures.⁶¹ At the very least, the FEC seems to recognize that independent expenditures and spending of personal funds are not perfectly comparable, given the former involves no coordination with a candidate’s committee whereas the latter is made “on behalf of the [candidate’s] committee” (hence referring to them as “in-kind contributions”).⁶²

Moreover, BCRA’s statutory provisions themselves seem a bit more ambiguous than perhaps some critics of the Bloomberg loophole suggest.⁶³ For one, BCRA prohibits national party committees only from receiving money “not subject to the limitations, prohibitions, *and* reporting requirements” of FECA.⁶⁴ While the use of “and” in this provision might suggest it should be treated as a conjunctive list, “limitations” and “prohibitions” are two separate things in campaign finance law.⁶⁵ For example, individual contributions by U.S. citizens are subject to limitations, not prohibitions, and contributions by foreign nationals are strictly prohibited, not limited.⁶⁶ Thus, “limitations, prohibitions, and reporting requirements” could very well be interpreted as a disjunctive list, meaning only one part needs to be satisfied rather than all three.⁶⁷ In such a case, a candidate committee would not be prohibited from transferring the candidate’s personal funds to a national party committee under BCRA, since personal funds are subject to reporting requirements.⁶⁸

60. Candidate Committees, FEC, <https://transition.fec.gov/rad/candidates/FEC-Reports/AnalysisDivision-CandidateCommittees.shtml#candidateinkinds> [<https://perma.cc/TM9V-23L2>] (last visited Aug. 25, 2020) (emphasis added).

61. But see Fischer, *supra* note 7 (describing this as nothing more than “reasonable guidance” to keep a campaign’s books in order).

62. Candidate Committees, *supra* note 60.

63. Even Citizens United admits this in its petition to the FEC. See Letter from Michael Boos to Lisa J. Stevenson, *supra* note 8, at 4 (“[52 U.S.C. § 30114’s] statutory language is [at best] ambiguous as to whether funds derived from a candidate’s personal funds are subject to transfer without limitation to a . . . party committee.”).

64. 52 U.S.C. § 30125(a)(1) (2018) (emphasis added).

65. See, e.g., Who Can and Can’t Contribute, FEC, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/who-can-and-cant-contribute> [<https://perma.cc/K9JG-ZCH8>] (last visited Aug. 25, 2020) (treating limitations and prohibitions as two separate constraints on contributions).

66. See *id.*

67. See *Gustafson v. Alloyd Co.*, 513 U.S. 561, 574 (1995) (“[T]he Court will avoid a reading [of a statute] which renders some words altogether redundant.”). But see Abbe R. Gluck & Lisa Schultz Bressman, *Statutory Interpretation from the Inside—An Empirical Study of Congressional Drafting, Delegation, and the Canons: Part I*, 65 *Stan. L. Rev.* 901, 934–36 (2013) (finding that most congressional staffers do not always consciously avoid redundancy).

68. See Candidate Committees, *supra* note 60 (“In addition to reporting [the candidate’s expenditure of personal funds on behalf of the committee] on Schedule A if it

Finally, BCRA's legislative history suggests no intent to limit self-funded candidates from transferring funds to political parties. Indeed, one of the few mentions of candidate committees during Congress's discussion of BCRA came from Senator Russ Feingold—one of the chief sponsors of BCRA—who stated simply that “[t]he language continues to allow candidates to use excess campaign funds for transfers to a national, State or local committee of a political party. It is the intent of the authors that—as is the case under current law—such transfers be permitted without limitation.”⁶⁹ Perhaps Congress merely neglected to anticipate self-funded candidates using their candidate committees to donate millions of dollars in personal funds to a party committee. That itself, however, is telling. Overall, it remains unclear whether BCRA's amendments to FECA place any concrete statutory limits on self-funded candidates' ability to donate unlimited funds to the political party of their choice.

Two facts, however, are clear. First, regardless of statutory ambiguities, current FEC regulations allow self-funded candidates to transfer funds “without limitation” to party committees.⁷⁰ This explains why Mayor Bloomberg, the individual, can only donate \$35,500 to the DNC in any given year,⁷¹ but Mayor Bloomberg, the former presidential candidate, could transfer \$18 million from his campaign funds to the DNC in March 2020.⁷² Second, in failing to write a categorically clear provision limiting such transfers of candidates' personal funds to party committees, Congress left the door wide open for self-funded candidates to abuse the system and exercise undue influence over our political parties. Part II discusses this issue in detail, and explains how a lack of clear limits on self-funded candidates transferring their funds to political parties creates one of the greatest opportunities for quid pro quo corruption in modern-day U.S. politics.

II. SELF-FUNDED CANDIDATES, POLITICAL PARTIES, AND THE THREAT OF QUID PRO QUO

There are no limits on how much personal funding a candidate may use to support their own campaign.⁷³ Consequently, under current FEC regulations, a self-funded candidate may pour as much of their own money as they please into their committee, and subsequently transfer an unlimited amount of that self-funded money to a party committee. This Part discusses the growing prevalence of self-funded candidates in federal elections,

exceeds the \$200 itemization threshold for the election cycle, the committee must also itemize it on Schedule B for Operating Expenditures.”).

69. 148 Cong. Rec. 3605 (2002) (statement of Sen. Feingold).

70. See 11 C.F.R. § 113.2(c) (2020) (“[F]unds in a campaign account . . . [m]ay be transferred without limitation to any national, State, or local committee of any political party.”).

71. See Contribution Limits for 2019–2020 Federal Elections, *supra* note 1.

72. See Niquette, *supra* note 2.

73. See *Buckley v. Valeo*, 424 U.S. 1, 51–54 (1976) (holding such limits to be unconstitutional).

and the potential for corruption that exists when self-funded candidates can use their candidacy to give a party committee limitless amounts of money. Section II.A briefly overviews the rise of self-funded candidates in federal elections. Section II.B discusses how the lack of limits on candidate committee contributions to party committees produces a threat of quid pro quo corruption between a self-funded candidate and a political party or party-member candidate.

A. *The Rise of Self-Funded Candidates*

Self-funded campaigns become more prevalent and influential with each passing election year.⁷⁴ For instance, in 2002—the year Congress passed BCRA—there were twenty-two major⁷⁵ self-funded candidates for federal offices who spent a combined total of \$54,056,504 of their own money, an average of approximately \$2,457,000 per candidate.⁷⁶ In 2018, however, forty-one major self-funded candidates spent a combined total of \$240,250,850 of their own money, an average of approximately \$5,860,000 per candidate.⁷⁷ In other words, self-funded candidates on average contributed more than double of their money to their campaigns in 2018 than they did in 2002.⁷⁸ Furthermore, the 2020 presidential election marked the first U.S. presidential election to have three self-funded candidates running in a major-party primary.⁷⁹ Mayor Bloomberg's campaign

74. See Richard Briffault, *Davis v. FEC: The Roberts Court's Continuing Attack on Campaign Finance Reform*, 44 Tulsa L. Rev. 475, 479 (2009) (“There is . . . evidence that the rise of self-funded candidates has made it more difficult for non-wealthy candidates to compete.”).

75. This Piece defines a “major” self-funded candidate as one who spent at least \$1 million of their own money in support of their campaign. The reason for this is that Open Secrets only lists candidates who spent more than \$1 million of their own money on its 2018 “Top Self-Funding Candidates” page. See *infra* note 77.

76. See Top Self-Funding Candidates: 2002, Open Secrets, <https://www.opensecrets.org/overview/topself.php?cycle=2002> [<https://perma.cc/K7HR-XLAG>] (last visited May 21, 2020).

77. See Top Self-Funding Candidates: 2018, Open Secrets, <https://www.opensecrets.org/overview/topself.php?cycle=2018> [<https://perma.cc/6F82-UXQP>] (last visited May 21, 2020).

78. This remains largely true even when accounting for inflation: \$2,457,000 in 2002 would be equivalent to approximately \$3,430,000 in 2018, which is still only 58.5% of the approximate \$5,860,000 spent on average per major self-funded candidate in 2018. See Inflation Calculator, U.S. Inflation Calculator, <https://www.usinflationcalculator.com> [<https://perma.cc/7XNM-H227>] (last visited Sept. 18, 2020); see also *supra* note 77 and accompanying text.

79. See Julie Bykowicz, Bloomberg Joins Eclectic List of Self-Funding Presidential Candidates, Wall St. J. (Nov. 30, 2019), <https://www.wsj.com/articles/bloomberg-joins-eclectic-list-of-self-funding-presidential-candidates-11575090001> (on file with the *Columbia Law Review*) (noting how Michael Bloomberg, Tom Steyer, and John Delaney were all self-funded Democratic candidates). Additionally, at least two other well-known billionaires—Mark Cuban and Howard Schultz—strongly considered running for President in 2020. See Shawn Langlois, President Mark Cuban? The Billionaire Isn't Ruling Out Entering the 2020 Race, Mkt. Watch (Apr. 13, 2020), <https://www.marketwatch.com/story/president-mark->

itself broke the record for the most expensive self-funded campaign in U.S. history, spending well over half a billion dollars on ads alone.⁸⁰ Overall, the numbers indicate that self-funded candidates are on the rise in the United States.

Still, some commentators question the actual extent to which self-funded candidates impact the U.S. electoral system, noting that self-funded candidates tend to lose their elections despite their enormous financial resources.⁸¹ Mayor Bloomberg's expensive campaign, for instance, ultimately netted him a grand total of one primary win: American Samoa.⁸² As the next section shows, however, the influence of self-funded candidates extends far beyond whether they actually manage to become an officeholder.

B. *Self-Funded Candidates and Quid Pro Quo*

When self-funded candidates can transfer an unlimited amount of their campaign funds to party committees, opportunities abound for said self-funded candidates to enter into quid pro quo arrangements with a party committee or its candidates. There is, after all, a reason why federal campaign finance law caps individual contributions to national party committees at \$35,500 per year.⁸³ If a self-funded candidate promises to contribute millions of dollars to a political party by funneling the money through their candidate committee, then, as the D.C. Circuit warns, this could cause the party to “grant political favors” to the self-funded candidate to ensure that they fulfill their promised contribution.⁸⁴ One could imagine such political favors to include, for example, giving the self-

cuban-the-billionaire-isnt-ruling-out-entering-the-2020-race-2020-04-12 [https://perma.cc/KX54-6H7X]; Emily Stewart, Former Starbucks CEO Howard Schultz's Lurking Presidential Bid, Explained, Vox (Jan. 28, 2019), https://www.vox.com/policy-and-politics/2019/1/28/18200565/howard-schultz-starbucks-2020-independent-60-minutes [https://perma.cc/4REN-77ML].

80. Wu, *supra* note 6.

81. See, e.g., Joe Albanese, Failure of Campaign Self-Funders Highlights Once Again that Money Doesn't Buy Elections, Inst. for Free Speech (Mar. 20, 2017), https://www.ifs.org/blog/failure-of-campaign-self-funders-highlights-once-again-that-money-doesnt-buy-elections [https://perma.cc/TU4A-DEBH]; Niv M. Sultan, Self-Funded Candidates Lose Big (Except When They Don't), Open Secrets (Mar. 15, 2017), https://www.opensecrets.org/news/2017/03/self-funded-candidates [https://perma.cc/6RD6-Z6B6].

82. See Lauren Egan, Bloomberg Notches First Win—In American Samoa, 6,000 miles from U.S. Mainland, NBC New Projects, NBC News (Mar. 3, 2020), https://www.nbcnews.com/politics/2020-election/bloomberg-notches-first-win-american-samoa-6000-miles-u-s-n1148811 [https://perma.cc/LRD3-Y97R].

83. See *supra* notes 34–42 and accompanying text. Similarly, individual contributions to state/local party committees are capped at a combined \$10,000 per year. Contribution Limits for 2019–2020 Federal Elections, *supra* note 1.

84. See *Libertarian Nat'l Comm., Inc. v. Fed. Election Comm'n*, 924 F.3d 533, 542 (D.C. Cir. 2019) (noting the potential for a quid pro quo arrangement between a political party and an individual who promises to donate a portion of their estate to said party).

funded candidate influence over the party's platform,⁸⁵ or changing debate rules to allow the self-funded candidate to participate in a primary debate.⁸⁶

There is also the threat of "conduit" corruption, in which a self-funded candidate uses their ability to transfer unlimited funds to a political party to gain political favors from that party's other candidates.⁸⁷ The "prototypical example" of conduit corruption is when "donations to state and national parties . . . serve as a means for circumvent[ing] the limits on contributions between donors and candidates."⁸⁸ Hence, while a self-funded candidate can only contribute a maximum of \$4,800 to another candidate under the current contribution limits,⁸⁹ they could indirectly donate additional money to said candidate by giving money to the candidate's party, which could then give that money directly to the candidate—the party acts as a "conduit" for the self-funded candidate's money to flow to other candidates.

Conduit contributions to party committees by self-funded candidates can be immensely problematic, as limits on coordinated party expenditure are much higher than the limits on individual and candidate committee contributions. A party committee, for instance, can spend up to \$51,900 in coordinated expenditure to support a nominee for a House of Representatives seat.⁹⁰ Thus, if a self-funded candidate transfers \$18 million of their personal funds to a party committee, they have effectively donated enough to max out coordinated party expenditure for party nominees in 346 House races—a massive influence. Moreover, a party committee can currently

85. See, e.g., Daniel Strauss, Michael Bloomberg Expands Influence Network Within Democratic Party, *Guardian* (May 2, 2020), <https://www.theguardian.com/us-news/2020/may/02/michael-bloomberg-expands-influence-network-within-democratic-party> [<https://perma.cc/Q5J3-NGRX>] ("But the rapid expansion of Bloomberg-connected groups and operatives around Washington also suggests Bloomberg intends to hold a seat at the table among the most influential Democratic party leaders, albeit one outside of elected office.").

86. See, e.g., Janell Ross, Rule Change by Democrats Could Help Bloomberg, *NBC News* (Feb. 13, 2020), <https://www.nbcnews.com/news/nbcblk/rule-change-democrats-could-help-bloomberg-n1136081> [<https://perma.cc/ZU5K-BB8J>].

87. See *Libertarian Nat'l Comm.*, 924 F.3d at 542 (noting the potential for a quid pro quo arrangement between a political party's candidates/officeholders and an individual who promises to donate a portion of their estate to said party).

88. Nabil Ansari, Note, Judicial Standards for the Anti-Circumvention Rationale in Campaign Finance, 19 N.Y.U. J. Legis. & Pub. Pol'y 417, 418 n.5 (2016) (citing *Colo. Republican II*, 533 U.S. 431, 447 (2001)).

89. The self-funded candidate could donate \$2,800 in their individual capacity and \$2,000 through their candidate committee. See Contribution Limits for 2019–2020 Federal Elections, *supra* note 1.

90. Coordinated Party Expenditure Limits, FEC, <https://www.fec.gov/help-candidates-and-committees/making-disbursements-political-party/coordinated-party-expenditures/coordinated-party-expenditure-limits> [<https://perma.cc/KJZ2-SNGP>] (last visited May 22, 2020). This limit increases to \$103,700 in states with only one representative. *Id.*

spend up to \$26,464,700 in coordinated expenditure to support its presidential nominee.⁹¹ If said presidential nominee wanted to help their nominating party raise such money through individual contributions, they would need to reach out to at least 746 individuals.⁹² If, however, a self-funded candidate has the proper means to foot the bill, said presidential nominee might circumvent the individual contribution limits by simply asking the self-funded candidate to transfer the entirety of the \$26,464,700 from the self-funded candidate's committee to their party.⁹³ Such a system creates massive potential for "corruption by circumvention,"⁹⁴ with party nominees avoiding existing contribution limits by entering into arrangements with self-funded candidates, granting them political favors in exchange for the self-funded candidate's multimillion dollar conduit contribution to their nominating party.

As it stands, federal campaign finance law offers no clear prophylactic measures to prevent such quid pro quo corruption from occurring.⁹⁵ Accordingly, as the next Part suggests, Congress should consider passing a legislative solution to combat quid pro quo arrangements between self-funded candidates and political parties and their candidates.

III. IN SEARCH OF CLEAR LIMITS

In light of the opportunities for quid pro quo corruption Part II discusses, this Part overviews both regulatory and legislative solutions to definitively close any gap in federal campaign finance law currently allowing self-funded candidates to transfer unlimited funds to political parties. Section III.A covers the regulatory solution, namely the rulemaking petition taken up by the FEC in June 2020,⁹⁶ but concludes that such a solution is neither guaranteed nor optimal. Section III.B then lays out a legislative solution, under which self-funded candidates would be explicitly subject to limits when contributing to party committees. Section III.C then addresses two concerns that may arise under such a solution: (1) whether it is constitutional, and (2) whether limiting contributions to political parties in general is sound campaign finance policy.

91. *Id.*

92. And this would only be if said 746 individuals could contribute the maximum amount of \$35,500. See Contribution Limits for 2019–2020 Federal Elections, *supra* note 1. Otherwise, the number would be even higher.

93. Cf. *Colo. Republican II*, 533 U.S. at 460 ("If a candidate could arrange for a party committee to foot his bills . . . the number of donors necessary to raise \$1,000,000 could be reduced from 500 . . . to 46 . . .").

94. *Id.* at 461.

95. See *supra* section I.C.

96. Rulemaking Petition: Transfers from Candidate's Authorized Committee, 85 Fed. Reg. 39,098 (June 18, 2020).

A. *The Looming FEC Rulemaking Decision*

In April 2020, Citizens United issued a rulemaking petition to the FEC to close the regulatory loophole that currently allows self-funded candidates to donate their personal funds to political parties “without limitation.”⁹⁷ As section I.C discusses, their argument is largely textual, claiming that current FEC regulation does not fully align with and enforce FECA’s statutory language covering candidate committee contributions as amended by BCRA.⁹⁸ Accordingly, Citizens United—and other critics of the Bloomberg loophole—have asked the FEC to amend 11 C.F.R. § 113.2 to limit the ability to transfer a candidate’s personal funds to party committees.⁹⁹ Since then, the FEC has taken up the petition,¹⁰⁰ and if the Agency finds the petition has merit, “it may begin a rulemaking proceeding” that could close the loophole.¹⁰¹

There are, however, many reasons why attempting to close the Bloomberg loophole through the FEC rulemaking process is a less-than-ideal route. First, there is no guarantee that the FEC will even be able to engage in the rulemaking process any time soon. The Agency can barely maintain a quorum of commissioners these days,¹⁰² and even when new commissioners are appointed, many (mainly Republicans) tend to be anti-campaign finance regulation.¹⁰³ And even if the FEC could reach (and maintain) quorum in the near future, there would still be many good-faith arguments that Citizens United’s petition lacks merit.¹⁰⁴ Second, even if the FEC ultimately found that the petition had merit and issued a rulemaking decision closing the Bloomberg loophole, a future FEC could

97. See Letter from Michael Boos to Lisa J. Stevenson, *supra* note 8, at 4; see also 11 C.F.R. § 113.2(c) (2020) (“[F]unds in a campaign account . . . [m]ay be transferred without limitation to any national, State, or local committee of any political party.”). There is, of course, an irony in Citizens United spearheading an effort to expand federal campaign finance regulation. See *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 372 (2010) (striking down BCRA’s Title II restrictions on independent expenditures for electioneering communications by unions and corporations, an outcome desired by petitioner Citizens United).

98. For an overview of this argument, see *supra* notes 50–58 and accompanying text.

99. See Letter from Michael Boos to Lisa J. Stevenson, *supra* note 8, at 4; Letter from Brendan M. Fischer & Tony Dechario to Lisa J. Stevenson, *supra* note 50, at 1.

100. See Rulemaking Petition: Transfers from Candidate’s Authorized Committee, 85 Fed. Reg. at 39,098.

101. See *id.* at 39,099.

102. See Ackley, *supra* note 12 (losing quorum in July 2020); Brian Naylor, As FEC Nears Shutdown, Priorities Such as Stopping Election Interference on Hold, NPR (Aug. 30, 2019), <https://www.npr.org/2019/08/30/755523088/as-fec-nears-shutdown-priorities-such-as-stopping-election-interference-on-hold> [<https://perma.cc/6EEH-QFL7>] (losing quorum in August 2019); see also John, *supra* note 12 (describing how the FEC has lost quorum twice over the last two years, while only losing quorum once between 1975 and 2018).

103. See, e.g., Lee, *supra* note 10 (noting that recently appointed FEC Chair James E. “Trey” Trainor III “has pushed for less regulation of money in politics”).

104. See *supra* notes 59–69 and accompanying text.

easily overturn such a regulatory fix.¹⁰⁵ For these reasons, the next section suggests pursuing a more stable legislative solution that would set clear and fair limits on contributions from self-funded candidates' committees to party committees.

B. *A Legislative Solution*

The most rational legislative solution would be to simply subject self-funded candidates' committees to the same contribution limit that individuals face when contributing to party committees: \$35,500 for national committees and \$10,000 for state/local committees.¹⁰⁶ There must, however, be some nuance applied within this solution. For instance, very few self-funded campaigns receive 100% of their funds from their candidate's own pocketbook.¹⁰⁷ Thus, it would not make sense to subject 100% of a self-funded candidate's funds to a contribution limit if the candidate's own money accounts for, say, only 80% of their funds. In such a scenario, the other 20% of the candidate's funds would have been raised mostly through contributions from other individuals and PACs, meaning these funds would have already been subjected to other contribution limits.¹⁰⁸ Running this hypothetical 20% through an additional contribution limit if the self-funded candidate transfers funds to a party committee would be contrary to the policy goals of previous legislation such as BCRA, which sought to only target money given to party committees that had not yet been subject to existing "limitations, prohibitions, and reporting requirements."¹⁰⁹ Accordingly, this Piece recommends a legislative solution that imposes limits on only the self-funded portions of a candidate committee's overall funds.

The clearest way to do this would be to amend 52 U.S.C. § 30114(a)(4) to read as follows (with the suggested amendment in *italics*):

(a) A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

...

105. Cf. *Hy-Brand Indus. Contractors, Ltd.*, 365 N.L.R.B. No. 156, 1–2 (Dec. 14, 2017) (involving a Trump-era NLRB overturning a decision made only two years prior by an Obama-era NLRB), vacated for procedural reasons, 366 N.L.R.B. No. 26 (Feb. 26, 2018).

106. Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 85 Fed. Reg. 9772, 9774 (Feb. 13, 2020); Contribution Limits for 2019–2020 Federal Elections, *supra* note 1.

107. See Top Self-Funding Candidates: 2018, *supra* note 77 (indicating that each of the forty-one major self-funded federal candidates in 2018 raised at least some of their funds from sources other than themselves).

108. See 52 U.S.C. § 30116(a)(1)(A) (2018) (individual contribution limits); *id.* § 30116(a)(2)(A) (PAC contribution limits).

109. See *id.* § 30125(a)(1).

(4) for transfers, without limitation, to a national, State, or local committee of a political party, *except for personal funds used by the candidate or individual in support of their own candidacy or activities as a holder of Federal office, which shall be subject to the dollar limits set forth in subsections 30116(a)(1)(B)–(D) . . .*¹¹⁰

To illustrate how this solution would work, imagine Candidate A's committee raised \$50 million in funds, with \$49 million of the funds coming from Candidate A's own money and \$1 million coming from contributions from other individuals. Currently, if Candidate A sought to transfer funds to Party X's national committee, they could transfer all \$50 million.¹¹¹ Under this Piece's proposed legislation, however, they could only transfer a maximum of \$1,035,500. The \$1 million raised through individual donations would remain free from any limits, since these funds would have already been subjected to existing contribution limits.¹¹² The self-funded \$49 million, in contrast, would be subject to the same limits individuals currently face when contributing to party committees.¹¹³

C. *Considerations Against the Proposed Limits*

This section engages with two likely critiques of the legislative solution proposed in the previous section (though such concerns could equally apply to a regulatory solution). Section III.C.1 responds to potential concerns over the constitutionality of the proposed solution. Section III.C.2 addresses arguments made by some campaign finance scholars in favor of loosening restrictions on contributions to political parties.

1. *The Constitutionality of the Proposed Limit.* — Some commentators may have legitimate concerns that today's Supreme Court would strike down a limit on candidate committee contributions to party committees as unconstitutional. While the *McConnell* Court upheld limits on individual contributions to party committees,¹¹⁴ it did so "on constitutional bases beyond the prevention of quid pro quo corruption."¹¹⁵ At the time of *McConnell*, as Professor Michael Kang states, "[P]arty committees themselves had never been understood . . . to be legally capable of engaging in the type of quid pro quo exchanges that triggered the government's anti-corruption interest."¹¹⁶ Consequently, given that the post-*McConnell* Court

110. See *id.* §§ 30114(a)(4), 30116(a)(1)(B)–(D) (setting limits on individual contributions to national, state, and local party committees).

111. See *supra* notes 70–72 and accompanying text.

112. See Contribution Limits for 2019–2020 Federal Elections, *supra* note 1 (capping individual contributions to candidate committees at \$2,800 per election).

113. See 52 U.S.C. § 30116(a)(1)(B)–(D).

114. See *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 154 (2003) ("[T]here is substantial evidence . . . that large soft-money contributions to national political parties give rise to corruption and the appearance of corruption.").

115. Michael S. Kang, *The Brave New World of Party Campaign Finance Law*, 101 *Cornell L. Rev.* 531, 545 (2016).

116. *Id.*

has declared the prevention of quid pro quo corruption to be the only governmental interest sufficiently important enough to constitutionally justify contribution limits,¹¹⁷ some may argue that limits on contributions to party committees do not satisfy the Court's modern, stringent standards.

There are, however, strong reasons to believe that such a limit would still withstand constitutional scrutiny even under today's Roberts Court. For one, the Court has never clearly stated that contributions to political parties could never exist within its quid pro quo framework; rather, this conclusion has simply been implied through the Court's failure to explicitly extend its understanding of quid pro quo corruption to cover such contributions.¹¹⁸ If anything, the D.C. Circuit's recent decision in *Libertarian National Committee, Inc. v. FEC* recognizing the potential for quid pro quo arrangements between individuals and political parties¹¹⁹—which the Court declined to review on certiorari¹²⁰—suggests that the Court's definition of quid pro quo corruption may not be so uncompromising as to categorically exclude all contributions to political parties.¹²¹ And though it may be difficult to prove the existence of such arrangements, this will have no bearing on the constitutionality of the proposed limits since the Court recognizes contribution limits as prophylactic measures.¹²² Nevertheless, even if the strictest definition of quid pro quo corruption were applied, the proposed limit should still be deemed constitutional because the limit would also target quid pro quo arrangements between self-funded candidates and other candidates formed through conduit contributions to political parties.¹²³

117. See *McCutcheon v. Fed. Election Comm'n*, 572 U.S. 185, 227 (2014) (plurality opinion) (“We have, however, held that this interest must be limited to a specific kind of corruption—*quid pro quo* corruption . . .” (italics in original)); *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 359 (2010) (“When *Buckley* identified a sufficiently important governmental interest in preventing corruption or the appearance of corruption, that interest was limited to *quid pro quo* corruption.” (italics in original)).

118. See Kang, *supra* note 115, at 545 (“Rather than extend quid pro quo corruption to cover the intuitive case against soft money, the Court instead applied its novel theory of undue influence to uphold the federal prohibition.”).

119. See 924 F.3d 533, 542 (D.C. Cir. 2019) (“The risk of quid pro quo corruption . . . could cause that party . . . ‘to grant political favors to the individual . . .’” (quoting *Libertarian Nat'l Comm., Inc. v. Fed. Election Comm'n*, 317 F. Supp. 3d 202, 247 (D.D.C. 2018))); see also *supra* notes 38–42 and accompanying text.

120. *Libertarian Nat'l Comm., Inc. v. Fed. Election Comm'n*, 140 S. Ct. 569 (2019).

121. But see *McCutcheon*, 572 U.S. at 211 (plurality opinion) (“For those reasons, the risk of *quid pro quo* corruption is generally applicable only to ‘the narrow category of money gifts that are directed, in some manner, to a candidate or officeholder.’” (italics in original) (quoting *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 310 (2003) (Kennedy, J., concurring in part))).

122. See *Citizens United*, 558 U.S. at 357 (“[R]estrictions on direct contributions are preventative, because few if any contributions to candidates will involve *quid pro quo* arrangements.” (italics in original)).

123. See *supra* notes 87–94 and accompanying text; see also *Colo. Republican II*, 533 U.S. 431, 464 (2001) (“There is no significant functional difference between a party's

2. *The Political Consequences of the Proposed Limit.* — Regardless of constitutionality, some experts warn that imposing stricter limits on contributions to political parties is simply bad policy, namely in that such limits fuel political polarization.¹²⁴ As Professor Raymond La Raja states, “[T]he middle ground of American politics . . . become[s] increasingly difficult to locate, as parties refuse to compromise for fear of losing the support of the key ideological factions that provide them with small donations in bulk.”¹²⁵ This Piece recognizes such criticisms, but does not see them as particularly damning against the call for limiting the amount a self-funded candidate can give to a political party. First off, whether limits on contributions to party committees actually correlate with political polarization is far from conclusive.¹²⁶ Moreover, even if such limits did result in more polarization, whether this is an undesirable outcome is a matter of ideological preference. While some may prefer for political parties to be more influenced by the centrist, liberal leanings of big donors, others yearn for the radicalization of their party to achieve what they believe to be true progress.¹²⁷ Accordingly, this Piece respectfully acknowledges but refrains from engaging in this debate.

CONCLUSION

When Congress passed BCRA in 2002, it changed federal campaign finance law for the better. Failing to set clear limits on self-funded candidates transferring personal funds to party committees, however, has resulted in a dangerous regulatory loophole ripe for exploitation. When self-funded candidates can use their candidacy as a pipeline to channel unlimited money to political parties, opportunities for the candidate to

coordinated expenditure and a direct party contribution to the candidate”); cf. *Ognibene v. Parkes*, 671 F.3d 174, 195 n.21 (2d Cir. 2011) (“*Citizens United* never doubted the government’s strong interest in preventing quid pro quo corruption or materially questioned the ability of corporations to serve as conduits for circumventing valid contributions limits.” (internal quotation marks omitted) (quoting *Minn. Citizens Concerned for Life, Inc. v. Swanson*, 640 F.3d 304, 318 (8th Cir. 2011), *aff’d in part and rev’d in part*, 692 F.3d 864 (8th Cir. 2012))).

124. See, e.g., Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* 156 (2008).

125. *Id.*

126. See Anthony J. Gaughan, *Trump, Twitter, and the Russians: The Growing Obsolescence of Federal Campaign Finance Law*, 27 *S. Cal. Interdisc. L.J.* 79, 118–19 (2017) (arguing that limits on contributions to candidates, as opposed to limits on contributions to parties, are more likely to contribute to polarization).

127. See, e.g., Eric Alterman, *Why Liberals Need Radicals—And Vice Versa, Democracy* (Winter 2015), <https://democracyjournal.org/magazine/35/why-liberals-need-radicals-and-vice-versa> [<https://perma.cc/YW3Y-3HZH>] (“[L]iberals have too frequently shown a willingness to grow overly comfortable with the conservative part of that equation. They need to be shaken up occasionally, and reminded why it is they are making all these necessary compromises in pursuit of the vision that animated them in the first place.”).

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engage in quid pro quo arrangements with a political party and its nominees will naturally arise. Therefore, Congress should pass legislation limiting the dollar amount a self-funded candidate may contribute to party committees. Until then, wealthy citizens will be free to buy influence simply by announcing, "I am running for public office."

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Date of BA/BS	May 2012
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Does the law school have a Law Review/Journal?	Yes
Law Review/Journal	No
Moot Court Experience	Yes
Moot Court Name(s)	The George Washington Law School Moot Court

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May 13, 2022

The Honorable John D. Bates
U.S. District Court for the District of Columbia
E. Barrett Prettyman Federal Courthouse
333 Constitution Avenue N.W.
Washington D.C. 20001

Dear Judge Bates:

I am a third-year law student at the George Washington University Law School and I will be graduating in December 2022. I am writing to apply for a judicial clerkship with your chambers. I am enclosing a copy of my resume, transcript, and writing sample. Also enclosed in my application are letters of recommendation from Professor Bignami, Professor Rosenbaum, Professor Kirkpatrick, and Dean Matthew. Thank you for your consideration.

Respectfully,



Michael Matthiesen

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EDUCATION

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Honors: Thurgood Marshall Scholar (*top 16 - 35% of the class, as of Fall 2021*), HEERF Grant Recipient

Activities: Moot Court Board, 2021 Van Vleck Moot Court Competition (Top 3 Oral Advocates), Student Health Law Association, Health Rights Law Clinic, Faculty Appointments Committee.

University College London

London, UK

Master of Arts, with Distinction, in Philosophy, Politics, and Economics of Health, GPA: 3.55

November 2015

Honors: Rotary International Global Grant Scholar, Goodenough College Member.

Activities: Student Academic Representative, USA in the UK, TEDxGoodenough College.

University of Miami

Coral Gables, FL

Master of Science in Education, with Graduate Honors in Community and Social Change, GPA: 3.83

August 2014

Honors: 2014 Miami CCJ Silver Medallion, 2013 & 2014 Eli Segal Award, CNCS President's Call to Service Award, Presidential Volunteer Service Award.

Activities: WVUM 90.5 FM Specialty Show Host, Graduate Student Association Senator.

Bachelor of Arts in Political Science and International Studies, with Departmental Honors, GPA: 3.482

May 2012

Honors: Bright Futures Scholar, Provost's Honor Roll, Dean's List, Pi Sigma Alpha Honor Society.

Activities: Model United Nations, WVUM 90.5 FM Executive Board, Specialty Show Host, and Rotation DJ.

EXPERIENCE

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Miami, FL

Summer Associate & Diversity Scholar

May 2022 – July 2022

The George Washington University Law School

Washington, DC

Research Assistant for Dean Dayna Matthew

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Edit documents for publication and serve as teaching assistant in the Race, Law, and Public Health course.

United States District Court for the District of Columbia

Washington, DC

Judicial Intern for The Honorable Royce Lamberth

January 2022 – April 2022

Researched and drafted orders on FOIA, January 6th proceedings, and the doctrine of consular non-reviewability.

Center for Disease Control & Prevention

Atlanta, GA

Public Health Law Intern

Sep 2021 – Dec 2021

Conducted legal map of state public health laws and their impact on the spread of sexually transmitted diseases.

U.S Department of Health & Human Services, Office of Trade and Health

Washington, DC

Summer Law Clerk

June 2021 – July 2021

Researched the global approval of COVID-19 vaccines and how distribution interacts with U.S. laws.

Federal Public Defender's for the Southern District of Florida

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Legal Intern

Aug. 2020 – Nov. 2020

Drafted compassionate release motions, conducted legal research, and answered constitutional questions.

United States District Court for the Southern District of Florida

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Judicial Extern for The Honorable Cecilia M. Altonaga

June – July 2020

Conducted legal research and drafted orders on statutory interpleader, OFAC collections, and maritime law.

Miami Dade College

Miami, FL

Various faculty and administrative positions

Feb. 2016 – June 2020

Responsible for managing staff, budgets, and the progress of students at the largest community college in the nation.

Grant Coordinator, Advising & Operations (Sept. 2017 – June 2020)

Managed 25 employees, \$500,000 budget, and related operations in compliance with U.S. Dept. of Education guidelines.

Served on President's Legislative Committee, Scholarship Committee, and IMPACT Committee.

Adjunct Professor, Philosophy (Feb. 2016 – May 2020)

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LANGUAGES: Conversational Portuguese; Beginner Spanish.

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 Concentration(s): Health Law

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS	SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
NON-GW HISTORY:					Summer 2021				
2019-2020	Florida International Univ								
LAW 6202	Contracts	4.00	TR		LAW 6230	Evidence	3.00	A	
LAW 6206	Torts	4.00	TR			Kirkpatrick			
LAW 6208	Property	4.00	TR		LAW 6668	Field Placement	3.00	CR	
LAW 6212	Civil Procedure	4.00	TR		LAW 6672	The Art Of Lawyering	2.00	B+	
LAW 6216	Fundamentals Of	3.00	TR			Grillot			
	Lawyering I				Ehrs	8.00	GPA-Hrs	5.00	GPA 3.733
LAW 6217	Fundamentals Of	2.00	TR		CUM	30.00	GPA-Hrs	26.00	GPA 3.641
	Lawyering II					Good Standing			
LAW 6218	Professional	3.00	TR		Fall 2021				
	Responslbty/Ethic								
	Transfer Hrs: 24.00				LAW 6232	Federal Courts	3.00	A-	
	Total Transfer Hrs: 24.00					Gavoor			
GEORGE WASHINGTON UNIVERSITY CREDIT:					LAW 6250	Corporations	4.00	A-	
Fall 2020	Law School					Mitchell			
	Law				LAW 6360	Criminal Procedure	3.00	B-	
LAW 6209	Legislation And	3.00	A-			Lerner			
	Regulation				LAW 6631	Health Rights Law Clinic	4.00	P	
	Kovacs					Jackson			
LAW 6214	Constitutional Law I	3.00	A-		Ehrs	14.00	GPA-Hrs	10.00	GPA 3.367
	Cheh				CUM	44.00	GPA-Hrs	36.00	GPA 3.565
LAW 6410	Health Care Law	4.00	A			THURGOOD MARSHALL SCHOLAR			
	Rosenbaum					TOP 16% - 35% OF THE CLASS TO DATE			
LAW 6644	Moot Court-Van Vleck	1.00	CR		Spring 2022				
	Johnson					Law School			
Ehrs	11.00	GPA-Hrs	10.00	GPA 3.800		Law			
CUM	11.00	GPA-Hrs	10.00	GPA 3.800		Health Law			
	Good Standing				LAW 6592	Jurisprudence Seminar	2.00	A	
	GEORGE WASHINGTON SCHOLAR				Ehrs	2.00	GPA-Hrs	2.00	GPA 4.000
	TOP 1%-15% OF THE CLASS TO DATE				CUM	46.00	GPA-Hrs	38.00	GPA 3.588
Spring 2021					Spring 2022				
	Law School					Law School			
	Law					Law			
LAW 6210	Criminal Law	3.00	B+			Health Law			
	Braman				LAW 6300	Federal Income Tax	3.00	-----	
LAW 6400	Administrative Law	3.00	B+		LAW 6380	Constitutional Law II	4.00	-----	
	Bignami					Credits In Progress:	7.00		
LAW 6411	Health Care Law Seminar	2.00	A		Fall 2022				
	Lynch								
LAW 6617	Law And Medicine	3.00	B+		LAW 6234	Conflict Of Laws	3.00	-----	
	Suter				LAW 6252	Securities Regulation	3.00	-----	
Ehrs	11.00	GPA-Hrs	11.00	GPA 3.455	LAW 6656	Independent Legal Writing	2.00	-----	
CUM	22.00	GPA-Hrs	21.00	GPA 3.619		Credits In Progress:	8.00		
	Good Standing				***** CONTINUED ON PAGE 2 *****				
	THURGOOD MARSHALL SCHOLAR								
	TOP 16% - 35% OF THE CLASS TO DATE								
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Page: 2

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
***** TRANSCRIPT TOTALS *****				
	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	46.00	38.00	136.33	3.588
TOTAL NON-GW HOURS	24.00	0.00	0.00	0.00
OVERALL	70.00	38.00	136.33	3.588
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DESIGNATION OF CREDIT

All courses are taught in semester hours.

TRANSFER CREDIT

Transfer courses listed on your transcript are bonafide courses and are assigned as advanced standing. However, whether or not these courses fulfill degree requirements is determined by individual school criteria. The notation of TR indicates credit accepted from a postsecondary institution or awarded by AP/IB exam.

EXPLANATION OF COURSE NUMBERING SYSTEM

All colleges and schools beginning Fall 2010 semester:

1000 to 1999	Primarily introductory undergraduate courses.
2000 to 4999	Advanced undergraduate courses that can also be taken for graduate credit with permission and additional work.
5000 to 5999	Special courses or part of special programs available to all students as part of ongoing curriculum innovation.
6000 to 6999	For master's, doctoral, and professional-level students; open to advanced undergraduate students with approval of the instructors and the dean or advising office.
8000 to 8999	For master's, doctoral, and professional-level students.

All colleges and schools except the Law School, the School of Medicine and Health Sciences, and the School of Public Health and Health Services before Fall 2010 semester:

001 to 100	Designed for freshman and sophomore students. Open to juniors and seniors with approval. Used by graduate students to make up undergraduate prerequisites. Not for graduate credit.
101 to 200	Designed for junior and senior students. With appropriate approval, specified courses may be taken for graduate credit by completing additional work.
201 to 300	Primarily for graduate students. Open to qualified seniors with approval of instructor and department chair. In School of Business, open only to seniors with a GPA of 3.00 or better as well as approval of department chair and dean.
301 to 400	Graduate School of Education and Human Development, School of Engineering and Applied Science, and Elliott School of International Affairs – Designed primarily for graduate students. Columbian College of Arts and Sciences – Limited to graduate students, primarily for doctoral students. School of Business – Limited to doctoral students.
700s	The 700 series is an ongoing program of curriculum innovation. The series includes courses taught by distinguished University Professors.
801	This number designates Dean's Seminar courses.

The Law School

Before June 1, 1968:

100 to 200	Required courses for first-year students.
201 to 300	Required and elective courses for Bachelor of Laws or Juris Doctor curriculum. Open to master's candidates with approval.
301 to 400	Advanced courses. Primarily for master's candidates. Open to LL.B or J.D. candidates with approval.

After June 1, 1968 through Summer 2010 semester:

201 to 299	Required courses for J.D. candidates.
300 to 499	Designed for second- and third-year J.D. candidates. Open to master's candidates only with special permission.
500 to 850	Designed for advanced law degree students. Open to J.D. candidates only with special permission.

School of Medicine and Health Sciences and School of Public Health and Health Services before Fall 2010 semester:

001 to 200	Designed for students in undergraduate programs.
201 to 800	Designed for M.D., health sciences, public health, health services, exercise science and other graduate degree candidates in the basic sciences.

CORCORAN COLLEGE OF ART + DESIGN

The George Washington University merged with the Corcoran College of Art + Design, effective August 21, 2014. For the pre-merger Corcoran transcript key, please visit <http://go.gwu.edu/corcorantranscriptkey>

THE CONSORTIUM OF UNIVERSITIES OF THE WASHINGTON METROPOLITAN AREA

Courses taken through the Consortium are recorded using the visited institutions' department symbol and course number in the first positions of the title field. The visited institution is denoted with one of the following GW abbreviations.

AU	American University	MMU	Marymount University
CORC	Corcoran College of Art & Design	MV	Mount Vernon College
CU	Catholic University of America	NVCC	Northern Virginia Community College
GC	Gallaudet University	PGCC	Prince George's Community College
GU	Georgetown University	SEU	Southeastern University
GL	Georgetown Law Center	TC	Trinity Washington University
GMU	George Mason University	USU	Uniformed Services University of the Health Sciences
HU	Howard University	UDC	University of the District of Columbia
MC	Montgomery College	UMD	University of Maryland

GRADING SYSTEMS

Undergraduate Grading System

A, Excellent; B, Good; C, Satisfactory; D, Low Pass; F, Fail; I, Incomplete; IPG, In Progress; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; P, Pass; NP, No Pass; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the I is replaced by the final grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 2011: The grading symbol RP indicates the class was repeated under Academic Forgiveness.

Effective Fall 2003: The grading symbol R indicates need to repeat course.

Prior to Summer 1992: When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I/ and the grade.

Effective Fall 1987: The following grading symbols were added: A-, B+, B-, C+, C-, D+, D-.

Effective Summer 1980: The grading symbols: P, Pass, and NP, No Pass, replace CR, Credit, and NC, No Credit.

Graduate Grading System

(Excludes Law and M.D. programs.) A, Excellent; B, Good; C, Minimum Pass; F, Failure; I, Incomplete; IPG, In Progress; CR, Credit; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 1994: The following grading symbols were added: A-, B+, B-, C+, C- grades on the graduate level.

Law Grading System

A+, A, A-, Excellent; B+, B, B-, Good; C+, C, C-, Passing; D, Minimum Pass; F, Failure; CR, Credit; NC, No Credit; I, Incomplete. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

M.D. Program Grading System

H, Honors; HP, High Pass; P, Pass; F, Failure; IP, In Progress; I, Incomplete; CN, Conditional; W, Withdrawal; X, Exempt; CN/P, Conditional converted to Pass; CN/F, Conditional converted to Failure. Through Summer 2014 the I was replaced with I and the final grade.

For historical information not included in the transcript key, please visit

<http://www.gwu.edu/transcriptkey>

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UNIVERSITY OF MIAMI
OFFICE OF THE REGISTRAR
1330 MILLER RD
WHITTEN UNIVERSITY CENTER RM 1230
CORAL GABLES, FL 33124-6914



TELEPHONE: 305-284-2211

Official Academic Transcript of:

MICHAEL MATTHIESEN
Transcript Created: 9-Jun-2021

Document Type: THIRD-PARTY SECURE PDF

Intended Recipient:

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Colleges and Universities

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50319484 Male ###-##-4367
Student ID Sex SSN

UNIVERSITY
OF MIAMI



MIAMI

CORAL GABLES, FLORIDA 33124

06/09/2021

Matthiesen, Michael Peter Samih
11430 S.W 101 Terrace
Miami, FL 33176-2571

Other Institutions Attended							Course		Course Title	Attempted	Earned	Grade	Qty Pts
Florida International Univ							MTH	103	FINITE	3.000	3.000	A	0.000
Tamiami Trail							PHY	110	MATHEMATICS	3.000	3.000	B	0.000
Miami, FL 33199									DESCRIPTIVE				
University of Central Florida							POL	100T	ASTRONM	3.000	3.000	A-	0.000
Box 25000									TRANSFER				
Orlando, FL 32816									CREDIT				
External Degrees							POL	100T	ELECTIVE	3.000	3.000	B	0.000
									TRANSFER				
									CREDIT				
									ELECTIVE				
							THA	100T	TRANSFER	3.000	3.000	B	0.000
									CREDIT				
									ELECTIVE				
Test Credits							THA	101	INTRO TO	3.000	3.000	C+	0.000
Test Credits Applied Toward Undergraduate Arts & Sciences									THEATRE				
FA 2009													
							Course Trans GPA:	0.000	Transfer Totals:	33.000	33.000		0.000
Course		Course Title	Attempted	Earned	Grade	Qty Pts							
POL	201	INTRO.AME.	3.000	3.000	CR	0.000	Transfer Credit from Miami Dade College (Kendall)						
							Applied Toward Undergraduate Arts & Sciences Program						
Test Trans GPA:							0.000	Transfer Totals:	3.000	3.000		0.000	
							Course		Course Title	Attempted	Earned	Grade	Qty Pts
							PSY	110	INTR TO	3.000	3.000	A	0.000
									PSYCHOLOGY				
Transfer Credits							SPA	101	ELEM SPANISH I	4.000	4.000	B	0.000
Transfer Credit from Florida International Univ													
Applied Toward Undergraduate Arts & Sciences Program							Course Trans GPA: 0.000 Transfer Totals: 7.000 7.000 0.000						
Spring 2011							Beginning of Undergraduate Record						
Course		Course Title	Attempted	Earned	Grade	Qty Pts							
ARB	101	ELEM ARABIC I	5.000	5.000	A-	0.000	Fall 2009						
Course Trans GPA:							0.000	Transfer Totals:	5.000	5.000		0.000	
Undergraduate Arts & Sciences													
Political Science Major													
International Studies Additional Major													
Transfer Credit from University of Central Florida													
Applied Toward Undergraduate Arts & Sciences Program							Course		Course Title	Attempted	Earned	Grade	Qty Pts
							BIL 106		ELEMENTARY ZOOLOGY	3.000	3.000	B+	9.900
							ENG 105		ENG COMPOSITION I	3.000	3.000	A	12.000
							PHI 110		CRITICAL THINKING	3.000	3.000	B+	9.900
							POL 202		INTRO.COMPAR.POLIT	3.000	3.000	B	9.000
							POR 105		ACCELER ELEM POR	3.000	3.000	B+	9.900
Fall 2009													
Course		Course Title	Attempted	Earned	Grade	Qty Pts							
COS	211	PUBLIC	3.000	3.000	B	0.000							
ENG	106	ENG	0.000	0.000	C-	0.000							
GEG	120	COMPOSITION II	3.000	3.000	C	0.000							
HIS	132	PHYSICAL	3.000	3.000	A	0.000							
HIS	131	GEOGRAPHY	3.000	3.000	A	0.000							
HIS	131	DEV WESTERN	3.000	3.000	C	0.000							
MAS	100T	DEV WESTERN	3.000	3.000	B	0.000							

Karen Buckett

UNIVERSITY REGISTRAR

Page 1 of 3

50319484 Male ###-##-4367
 Student ID Sex SSN

UNIVERSITY OF MIAMI



MIAMI

CORAL GABLES, FLORIDA 33124

06/09/2021

Matthiesen, Michael Peter Samih
 11430 S.W 101 Terrace
 Miami, FL 33176-2571

Spring 2010

Undergraduate Arts & Sciences
 Political Science Major
 International Studies Additional Major

Course	Course Title	Attempted	Earned	Grade	Qty Pts
ECO 211	ECON PRIN & PROBS	3.000	3.000	A-	11.100
ENG 106	ENG COMPOSITION II	3.000	3.000	A-	11.100
POL 203	INTRO.INTNL REL	3.000	3.000	B-	8.100
POL 348	US REL MIDDLE EAST	3.000	3.000	A	12.000
POR 211	INTERMED POR I	3.000	3.000	B	9.000

		Earned Credits	Graded Credits	Qty Pts
UM Semester GPA	3.420	UM Semester Totals	15.000	15.000
UM Cum GPA	3.400	UM Cumulative Totals	30.000	30.000
		Cum Course/Test Transfer Totals	43.000	102.000
		Cum Combined Totals	73.000	

Course	Course Title	Attempted	Earned	Grade	Qty Pts
CMP 151	INTRO DIGITAL PROD	3.000	3.000	A+	12.000
INS 460	UN SEMINAR	3.000	3.000	A	12.000
INS 511	Writing Credit				
	ISSUES IN INS II	3.000	3.000	A	12.000
	Writing Credit				
MVP 144	VOC TECH NON-MAJOR	1.000	1.000	A-	3.700
POL 536	US HLTH CARE CRIS	3.000	3.000	CR	0.000
REL 171	INTRO TO ISLAM	3.000	3.000	A-	11.100
	Writing Credit				

		Earned Credits	Graded Credits	Qty Pts
UM Semester GPA	3.908	UM Semester Totals	16.000	13.000
		Sem Course/Test Transfer Totals	5.000	
		Semester Combined Totals	21.000	13.000
UM Cum GPA	3.498	UM Cumulative Totals	61.000	58.000
		Cum Course/Test Transfer Totals	48.000	202.900
		Cum Combined Totals	109.000	

Fall 2010

Undergraduate Arts & Sciences
 Political Science Major
 International Studies Additional Major

Course	Course Title	Attempted	Earned	Grade	Qty Pts
INS 322	ECON DEV & ENVIRNM	3.000	3.000	A	12.000
	Writing Credit				
INS 415	INDEPENDENT STUDY	3.000	3.000	A	12.000
	Writing Credit				
POL 351	PUBLIC OPINION	3.000	3.000	B	9.000
POL 599	SPECIAL TOPICS	3.000	3.000	A-	11.100
POR 212	INTRMED POR II	3.000	3.000	C	6.000

		Earned Credits	Graded Credits	Qty Pts
UM Semester GPA	3.340	UM Semester Totals	15.000	15.000
UM Cum GPA	3.380	UM Cumulative Totals	45.000	45.000
		Cum Course/Test Transfer Totals	43.000	152.100
		Cum Combined Totals	88.000	

Term Honor: PROVOST'S HONOR ROLL & DEAN'S LIST

Fall 2011

Undergraduate Arts & Sciences
 Political Science Major
 International Studies Additional Major
 Arabic Studies Minor
 Leadership Minor

Course	Course Title	Attempted	Earned	Grade	Qty Pts
ARB 201	INTERMED ARABIC	3.000	3.000	A	12.000
ARB 310	ARABIC STUDIES	3.000	3.000	A	12.000
	Writing Credit				
EPS 311	GRP PROCESS DVLPMT	3.000	3.000	B	9.000
INS 418	HONORS THESIS	3.000	3.000	A	12.000
	Writing Credit				
KIN 306	ESSNT LDRSH SPRTS	3.000	3.000	A-	11.100

		Earned Credits	Graded Credits	Qty Pts
UM Semester GPA	3.740	UM Semester Totals	15.000	15.000
UM Cum GPA	3.548	UM Cumulative Totals	76.000	73.000
		Cum Course/Test Transfer Totals	48.000	259.000
		Cum Combined Totals	124.000	

Term Honor: DEAN'S LIST

Karen Buckett

UNIVERSITY REGISTRAR

Page 2 of 3

50319484 Male ###-##-4367
 Student ID Sex SSN

06/09/2021

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 11430 S.W 101 Terrace
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UNIVERSITY
 OF MIAMI



MIAMI

CORAL GABLES, FLORIDA 33124

Spring 2012

Undergraduate Arts & Sciences
 Political Science Major
 International Studies Additional Major
 Leadership Minor
 Arabic Studies Minor

Course	Course Title	Attempted	Earned	Grade	Qty Pts
ARB 202	INTERMED ARABIC II	3.000	3.000	A-	11.100
ECO 212	ECON PRIN & PROBS	3.000	3.000	B	9.000
INS 419	HONORS THESIS II	3.000	3.000	A	12.000
	Writing Credit				
KIN 308	ETH DEC MAK SPORT	3.000	3.000	B	9.000
	Writing Credit				
MGT 304	ORGNIZTNL BEHAVIOR	3.000	3.000	C+	6.900
			Earned Credits	Graded Credits	Qty Pts
UM Semester GPA	3.200 UM Semester Totals		15.000	15.000	48.000
UM Cum GPA	3.489 UM Cumulative Totals		91.000	88.000	307.000
	Cum Course/Test Transfer Totals		48.000		
	Cum Combined Totals		139.000		

Degrees Awarded

Degree: BACHELOR OF ARTS
 Confer Date: 05/11/2012
 Degree Honors: Departmental Honors in International Studies
 Political Science Major
 International Studies Additional Major
 Leadership Minor
 Arabic Studies Minor

End of Official transcript UGRD/GRAD

UNIVERSITY REGISTRAR

Page 3 of 3

50319484 Male ###-##-4367
Student ID Sex SSN

UNIVERSITY OF MIAMI

06/09/2021

Matthiesen, Michael Peter Samih
11430 S.W 101 Terrace
Miami, FL 33176-2571



CORAL GABLES, FLORIDA 33124

Other Institutions Attended

Florida International Univ	UM Semester GPA	3.850	UM Semester Totals	Earned Credits	12.000	Graded Credits	12.000	Qty Pts	46.200
Tamiami Trail									
Miami, FL 33199	UM Cum GPA	3.740	UM Cumulative Totals		15.000		15.000		56.100
University of Central Florida									
Box 25000									
Orlando, FL 32816									

Spring 2014

External Degrees

University of Miami
BACHELOR OF ARTS 05/11/2012

Graduate Education
Community and Social Change Major

Course	Course Title	Attempted	Earned	Grade	Qty Pts
EPS 648	MULTICULTURAL COMM	3.000	3.000	A	12.000
EPS 654	PROGRAM EVALUATION	3.000	3.000	A	12.000
EPS 658	CSCH SEMINAR	3.000	3.000	A	12.000

Transfer Credits

Transfer Credit from FLORIDA INTERNATIONAL UNIVERSITY
Applied Toward Graduate Education Program

Spring 2014

Course	Course Title	Attempted	Earned	Grade	Qty Pts
TRN 600T	TRANSFER CREDIT ELECTIVE	3.000	3.000	A	0.000

UM Semester GPA	4.000	UM Semester Totals	Earned Credits	9.000	Graded Credits	9.000	Qty Pts	36.000
		Sem Course/Test Transfer Totals		3.000				
		Semester Combined Totals		12.000		9.000		36.000
UM Cum GPA	3.838	UM Cumulative Totals		24.000		24.000		92.100
		Cum Course/Test Transfer Totals		3.000				
		Cum Combined Totals		27.000				

Course Trans GPA: 0.000 Transfer Totals: 3.000 3.000 0.000

Summer 2014

Beginning of Graduate Record

Fall 2010

Non-Degree Graduate
Graduate Non Degree Course of Study

Course	Course Title	Attempted	Earned	Grade	Qty Pts
INS 504	INT REL TOPICS II Writing Credit	3.000	3.000	B+	9.900

Course	Course Title	Attempted	Earned	Grade	Qty Pts
EPS 609	MNG. COMM. ORG.	3.000	3.000	A	12.000

UM Semester GPA	4.000	UM Semester Totals	Earned Credits	3.000	Graded Credits	3.000	Qty Pts	12.000
UM Cum GPA	3.856	UM Cumulative Totals		27.000		27.000		104.100
		Cum Course/Test Transfer Totals		3.000				
		Cum Combined Totals		30.000				

UM Semester GPA	3.300	UM Semester Totals	Earned Credits	3.000	Graded Credits	3.000	Qty Pts	9.900
UM Cum GPA	3.300	UM Cumulative Totals		3.000		3.000		9.900

Degrees Awarded

Degree: MASTER OF SCIENCE IN EDUCATION
Confer Date: 08/08/2014
Degree Honors: Award of Academic Merit
Community and Social Change Major

Fall 2013

Graduate Education
Community and Social Change Major

Course	Course Title	Attempted	Earned	Grade	Qty Pts
EPS 554	ESS RES SOC BHV SC	3.000	3.000	A-	11.100
EPS 606	COMM WELL-BEING	3.000	3.000	A	12.000
EPS 644	ORG DEV & CHANGE	3.000	3.000	A-	11.100
INS 503	INT RELATNS TOPICS	3.000	3.000	A	12.000
Course Topic:	Intl Human Rights				

End of Official transcript UGRD/GRAD

UNIVERSITY REGISTRAR

Page 1 of 1

TRANSCRIPT LEGEND

UNIVERSITY
OF MIAMI



Office of the University Registrar
P.O. Box 248026
Coral Gables, FL 33124-6914
www.miami.edu/registrar
(305) 284-2294 Phone
(305) 284-6293 Fax

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SCHOOLS AND COLLEGES

AR	School of Architecture
AS	College of Arts and Sciences
BU	Miami Herbert Business School
CO	School of Communication
CS	Division of Continuing and International Education
ED	School of Education and Human Development
EN	College of Engineering
GR	Interdisciplinary Studies and Combined Programs (Graduate Only)
MU	Frost School of Music
NU	School of Nursing & Health Studies
LW	School of Law
MS	Rosenstiel School of Marine & Atmospheric Sciences
MD	Miller School of Medicine
SP	Special Programs

PROGRAM LEVELS

Undergraduate
Graduate
Certificate
Non-degree status

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GRADING SYSTEM (ALL EXCEPT MEDICAL & LAW)

For grading explanations before 1986, please go to
www.miami.edu/registrar

Grades Used in Calculating Grade Point Average

GRADE	QUALITY POINTS
A+	4.0
A Superior	4.0
A-	3.7
B+	3.3
B Above Average	3.0
B-	2.7
C+	2.3
C Average	2.0
C-	1.7
D+	1.3
D Passing – Undergraduate	1.0
D Poor (not acceptable for credit hour toward the advanced degree)	1.0
E Failure	0.0
F Failure (Effective Fall 1995)	0.0

Indicates Administrative Notation for Internal Use Only

IE	Incomplete Failure – Undergraduate	0.0
IF	Incomplete Failure – Undergrad (Effective Fall 1995)	0.0
XF	Failure – Academic Integrity	0.0

Symbols Used to Indicate Course Status

I	Incomplete	0.0
IP	In Progress	0.0
NG	No Grade Submitted	0.0

Grades NOT Used in Calculating Grade Point Average

W	Withdrawn
WL	Withdrawn Late (After faculty-established date to withdraw; effective Summer 2017)
CR	Credit Received – Undergraduate
CP	Completed
NC	No Credit – Undergraduate
S	Satisfactory – Graduate
S-	Low Satisfactory – Graduate (Effective Fall 1995)
U	Unsatisfactory - Graduate

UNIT OF CREDIT / ACADEMIC CREDIT: The University of Miami adopted the following Federal Definition of the Credit Hour at the Faculty Senate meeting on April 17, 2013 that appears in the Credit Hours policy statement of the Southern Association of Colleges and Schools Commission on Colleges (SACS); Federal Requirement 4.9:

FEDERAL DEFINITION OF THE CREDIT HOUR: For purposes of the application of this policy and in accord with federal regulations, a credit hour is an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates: 1. Not less than one hour of classroom or direct faculty instruction and a minimum of two hours out of class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different amount of time, or 2. At least an equivalent amount of work as outlined in item 1 above for other academic activities as established by the institution including Laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours.

GRADE POINT AVERAGE

The grade point average is determined by dividing the total quality points earned by the total credits attempted.

TRANSFER COURSES

The GPA for transfer credits is not reflected on the University of Miami transcript. The cumulative GPA shown is for UM work only.

HONOR ROLLS

For all Honor Rolls, students must have registered for and have completed 12 or more graded credits (excluding the credits earned in courses taken for credit only) and have no courses with pending grades (I or NG).

PRESIDENT'S HONOR ROLL

In addition to the requirements for honor roll listed above, must have attained a grade point average of 4.0 for the semester.

PROVOST'S HONOR ROLL

In addition to the requirements for honor roll listed above, must have attained a grade point average of 3.75 or higher for the semester.

DEAN'S LIST

In addition to the requirements for honor roll listed above, must have attained a grade point average of 3.50 or higher for the semester.

GRADUATION HONORS for Undergraduates Only

As of Fall 2008, Latin Honors (summa cum laude, magna cum laude and cum laude) are determined by a minimum GPA unique to the school or college from which the student is graduating.

For a detailed explanation of current requirements and those prior to Fall 2008, please visit www.miami.edu/bulletin.

GOOD STANDING

To be in Good Academic Standing a student must not be on Academic Probation or subject to Academic Dismissal. For details on these policies as well as withdrawals, transfer credits, incompletes, repeated courses and academic bankruptcy, please visit www.miami.edu/bulletin. Student is academically eligible to re-enroll unless otherwise noted.

COGNATES

Starting in the Fall of 2013 the university's general education requirements changed to a cognate format. A cognate is a group of at least three related courses for at least 9 credits. The courses in a cognate are related in a topical, thematic, interdisciplinary, sequential, or other such fashion, so that completion of a cognate provides coherent depth of knowledge in the area. Students must take three cognates to fulfill the Areas of Knowledge requirement, one in the Arts & Humanities (A&H), one in People & Society (P&S), and one in Science, Technology, Engineering & Mathematics (STEM).

STUDENT CONDUCT NOTATIONS

As of Spring 2019, Student Conduct Notations will be placed on student transcripts. Notations of suspension are eligible to be removed at the end of the suspension period upon student request. Expulsions will remain permanently.

SPECIAL NOTE FOR SPRING 2020

Due to the mid-semester disruption caused by the COVID-19 pandemic, all Undergraduate and Graduate students had the option to select the CR/NC grading basis for any course(s) in which they were enrolled. Courses taken during Spring 2020 with the CR could be used to fulfill major, minor, cognate and degree requirements. No honor rolls were awarded for Spring 2020.

NOTE: In compliance with the Family Educational Rights and Privacy Act (FERPA) of 1974, this transcript has been released at the request of the student and may not be released to any other party without written consent of the student.



MICHAEL PETER SAMIH
MATTHIESEN

*having satisfactorily completed the approved course of study and the
prescribed assessment has this day been awarded the degree of*

Master of Arts

in

Philosophy, Politics and Economics of
Health

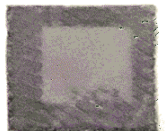
with

Merit

Date of award: 1 November 2015

A handwritten signature in black ink, appearing to read 'M. Arthur', written over a horizontal line.

Professor Michael Arthur
President and Provost
University College London



UNIVERSITY COLLEGE LONDON
LONDON'S GLOBAL UNIVERSITY



Academic Transcript

Personal Information

Student: Michael Peter Samih Matthiesen
 Date of Birth: 04 October 1989 University Reference: 14038542/1 HESA Reference: 1411490385424
 Qualification Sought: Master of Arts FHEQ Level: M

Programme Information

Teaching Institution: University College London Language of Instruction: English
 Mode of Attendance: Full-time
 Programme of Study: MA Philosophy, Politics and Economics of Health

Award Information

Qualification Awarded: Master of Arts in Philosophy, Politics and Economics of Health
 Classification: Merit
 Date of Award: 01 November 2015 Awarding Institution: University of London

Module Information

Academic Year	Module Code	Module Name	UCL Credit awarded	ECTS Credit awarded	Result Mark	Grade	Attempts Completed
2014/15	ANTHGS03	Risk, Power and Uncertainty	15.00	6.00	65	P	1
	EPIDGS41	The Social Determinants of Global Health	15.00	6.00	69	P	1
	PHILGA04	Global Justice and Health	15.00	6.00	65	P	1
	PHILGA10	General Philosophy 2: Knowledge and Reality	15.00	6.00	62	P	1
	PHILGA56	Cost Benefit Analysis and Health	15.00		64	P	1
	PHILGA57	Philosophy, Politics and Economics of Health	15.00		61	P	1
	PPEHG099	MA Philosophy, Politics and Economics of Health: Dissertation	60.00	24.00	71	D	1
	PUBLG002	Health Policy and Reform	15.00	6.00	67	P	1
	PUBLG037	Public Ethics	15.00	6.00	58	P	1

Total number of UCL credits gained: 180.00

Total number of ECTS credits gained: 60.00

END OF TRANSCRIPT

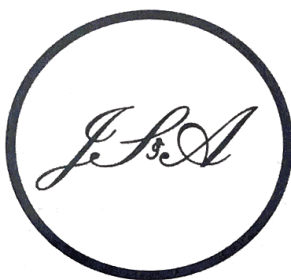
Transcript printed on 01 December 2015

This transcript, issued under the signature of the Registrar, UCL, is protected by tamper evident devices, and is not valid without a hologram positioned to the right of this text. Any queries should be directed to the issuing Office.



Wendy Appleby

Wendy Appleby – Registrar



REPORT OF EVALUATION OF EDUCATIONAL CREDENTIALS

NAME: Michael Peter Samih Matthiesen

COUNTRY: United Kingdom

PURPOSE OF

EVALUATION: Employment

January 14, 2016

In response to Mr. Matthiesen's request, the following is a course-by-course evaluation of his academic credentials from the United Kingdom. This evaluation was prepared based on official, original academic credentials.

Mr. Matthiesen pursued graduate study at University College London, a constituent college of the University of London from 2014 to 2015. Founded in 1826, University College London of the University of London is a public institution of higher education accredited by the Department of Business, Innovation and Skills of the United Kingdom. In order to be accepted into a Master's program at University College London of the University of London, applicants must have a Bachelor's degree from an accredited institution of higher education in the United Kingdom or the foreign equivalent. This is the equivalent of a U.S. Bachelor's degree earned at a regionally accredited institution of higher education in the United States.

Mr. Matthiesen completed the graduate program and was awarded the degree of Master of Arts in Philosophy, Politics and Economics of Health with Merit by the University College London on November 1, 2015. This is the equivalent of the U.S. degree of Master of Arts in Philosophy, Politics and Economics of Health earned at a regionally accredited institution of higher education in the United States.

Josef Silny & Associates, Inc.
International Education Consultants
7101 S.W. 102 Avenue
Miami, FL 33173
Tel: (305) 273-1616 Fax: (305) 273-1338
E-Mail: info@jsilny.org
www.jsilny.org



Below is the course-by-course evaluation of Mr. Matthiesen's graduate study at University College London in terms of U.S. courses, semester credit hours and grades:

<u>COURSES</u>		<u>CREDITS</u>	<u>GRADES</u>
2014-2015:			
ANTHGS03	Risk, Power and Uncertainty	3.75	B+
EPIDGS41	The Social Determinants of Global Health	3.75	B+
PHILGA04	Global Justice and Health	3.75	B+
PHILGA10	General Philosophy II: Knowledge and Reality	3.75	B+
PHILGA56	Cost Benefit Analysis and Health	3.75	B+
PHILGA57	Philosophy, Politics and Economics of Health	3.75	B+
PPEHG09	Philosophy, Politics and Economics of Health: Dissertation	15.00	A
PUBLG003	Health Policy and Reform	3.75	B+
PUBLG037	Public Ethics	3.75	B

This evaluation is of an advisory nature; each institution will determine which of the above mentioned courses will transfer.

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In summary, it is the judgment of Josef Silny & Associates, Inc., International Education Consultants, that Mr. Matthiesen has the equivalent of the U.S. degree of Master of Arts in Philosophy, Politics and Economics of Health earned at a regionally accredited institution of higher education in the United States.

Sincerely,

Omar N. Garcia Garrido
Senior International Education Consultant
OGG: 038

Kenneth L1
Senior International Education Consultant

Josef Silny & Associates, Inc.
International Education Consultants
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www.jsilny.org

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052

May 13, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I write in support of Michael Matthiesen's application for a clerkship in your chambers. Michael has a strong academic record and he is a dedicated and ambitious student. I am happy to give him my enthusiastic recommendation.

Michael was a student in the introductory administrative law course that I taught in spring 2021. As was the case for all GW Law courses, it was taught entirely on Zoom. In my view, the virtual format made what is already a challenging course even harder. Administrative law is not generally intuitive for students, especially for those, like Michael, without a background in an administrative agency, and the materials on the various federal programs covered in the case law can be quite dry—all of which is exacerbated in a large online class where there are potentially many distractions for students.

In this challenging environment, Michael's commitment to the course and to learning and mastering the materials was truly exceptional. He had a perfect attendance record, he always had his camera on (out of courtesy to the instructor), and he was always prepared to answer my questions during cold calls. Michael regularly attended my virtual office hours, where he asked insightful questions and sought to deepen his knowledge of the materials. Moreover, he has a pleasant and polite demeanor.

On the final exam, Michael's performance was solid: he received a B+, which placed him exactly in the middle of the mandatory curve (in a class of 68 students). For the purposes of writing this letter, I went back over his exam. Although he did not spot as many issues as some of his fellow students, his answers for the issues that he did spot showed an excellent grasp of the law, as well as polished writing skills.

Michael is an assiduous and gifted student who is driven to excel. I have every confidence that he will become a valuable member of the legal profession and that he will make the most of a clerkship to immerse himself in the demands and rewards of the profession and to contribute to the work of your chambers. Please feel free to contact me at fbignami@law.gwu.edu if you would like to speak further about his candidacy.

Yours sincerely,

Francesca Bignami

Francesca Bignami - fbignami@law.gwu.edu - 202-994-2470

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052

May 13, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I understand that Michael Matthiesen, a third-year student at The George Washington University Law School, is applying for a position with you. He has requested that I send a letter of reference on his behalf, and I am more than pleased to do so.

Mr. Matthiesen was a student in my Evidence class this past summer. He was the student who demonstrated the greatest understanding of the subject and contributed the most to our classroom discussions. It came as no surprise to me that he wrote the best final examination and received the highest grade in the class—an A.

He has demonstrated similar academic excellence in his other classes. He has a 3.64 GPA, which ranks him in the top 16-35% of his law school class and qualifies him for recognition as a Thurgood Marshall Scholar. He also compiled an outstanding academic record prior to coming to law school. He received a Masters degree from University College London in 2015, with distinction in Philosophy, Politics, and Economics of Health; a Master of Science degree with honors from the University of Miami in 2014; and his Bachelor of Arts degree from the University of Miami in 2012, where he was on the Provost's Honor Roll and the Dean's List.

He has also excelled in extra-curricular activities while in law school. He was recognized as one of the top three oral advocates in the Van Vleck Moot Court Competition, the school's most prestigious and competitive moot court activity. He served on the Moot Court Board and was appointed a student member of the Faculty Appointments Committee. In recognition of his outstanding abilities, the law school Dean, Dayna Matthew, selected him to serve as her personal research assistant both last year and this year.

Mr. Matthiesen has also had valuable legal experience outside of law school. He served as a Judicial Extern for the Honorable Cecilia M. Altonaga of the United States District Court for the Southern District of Florida, as a Legal Intern for the Federal Public Defender's Office for Southern Florida, as a Summer Law Clerk for the U.S. Department of Health & Human Services, and as a Public Health Law Intern for the Center for Disease Control and Prevention.

In short, Mr. Matthiesen is one of our most outstanding law students. He is highly intelligent, articulate, personable, and responsible. He is dedicated to service in the public interest. In my opinion, he would be an extraordinary judicial clerk and any judge fortunate enough to hire him will be more than satisfied. I am pleased to be able to recommend him highly and without reservation. If you need more information about this outstanding candidate, please don't hesitate to contact me.

Sincerely,

Laird Kirkpatrick
Louis Harkey Mayo Research Professor of Law

Laird Kirkpatrick - lkirkpatrick@law.gwu.edu

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052

May 13, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

Mr. Michael Matthiesen has asked me to write a letter in support of his application to serve as your judicial law clerk. I am pleased to do so and have seldom had the pleasure of writing more enthusiastically. As you may know, I have just become dean at the George Washington University Law School; Mr. Matthiesen is the first GW Law student I hired as a research assistant and teaching fellow. In the year we have worked together, I have learned that Michael Matthiesen embodies all that is quintessentially unique and excellent about GW Law students.

First, Mr. Matthiesen has extensive preparation in health law and policy that evince his thoughtful attention to building a deep fund of knowledge in several areas of the law while connecting the law to other fields of study. He has excelled at interdisciplinary study at multiple institutions of higher education in the United States and abroad. Beginning with his undergraduate preparation in Political Science and International Studies; continuing to his dual Masters degrees in Education and in Philosophy, Politics, and Economics of Health; and concluding most recently with his outstanding performance at GW Law, Mr. Matthiesen has consistently achieved the highest honors in all of his academic endeavors.

Second, in every setting, Mr. Matthiesen dedicates himself to applying the knowledge he has gained. He takes on formidable extracurricular activities that engage him in the lives of the institutions he attends as well as in the communities situated just outside the walls of the academy. GW Law students are characterized by their ability to integrate their studies with an understanding of the “real world” impact that law has on society. Mr. Matthiesen achieves this with a high level of intellectual sophistication and rigor that I have seldom seen in a law student.

I first met Mr. Matthiesen in October 2020 when he was a student host at a GW Law health law conference that introduced leading practitioners to students interested in the field. His well-rounded, intellectual curiosity caught my attention. While some other students’ inquiries focused on obtaining employment pointers, Mr. Matthiesen was one of the students who probed the nexus between theories and doctrines that inform the law, and the way that the practice of law incorporates those theories in order to improve society. For example, I was intrigued as I saw Mr. Matthiesen deftly and politely explore principles of social welfare theory concerning the social determinants of health with a speaker who had asserted her law firm’s transactional work reduced health inequality.

I was the beneficiary of Mr. Matthiesen’s superb research and analytical skills when, throughout the year, he provided extensive annotated outlines, briefs, and resources to help me craft the numerous, substantive speeches I gave about health law and policy. In the midst of a global pandemic that directly engaged my research interests, that was no mean feat. Mr. Matthiesen was able to keep up with preparing me to speak several times a month on topics that ranged from national vaccine policy, to the states’ regulations controlling public health emergencies, to recommendations for achieving the constitutional promise of equal protection for victims of the COVID-19 crisis. In addition, Mr. Matthiesen managed the formidable workload that came with being the course teaching fellow for a busy new law school dean. Here, Mr. Matthiesen’s prior experiences as an adjunct philosophy professor and senior academic and career advisor proved invaluable. He raised the quality of my course immeasurably not only because he is well-organized and possessed an extraordinary work ethic, but also because he is extremely well-read and generous toward his fellow students. I quickly learned that I was able to double the office hours available for my course simply because students were as happy to speak with Mr. Matthiesen as they were to speak with me!

I close with what may well be the most important observation I have made about Mr. Matthiesen this past year: he is an outstanding human being. I know this from his generosity with his time, which he manages well, his care and attention paid to the timely completion of every detail assigned to him, and also from the passion he displayed for disadvantaged groups whenever we spoke. But I also know this from the bits and pieces I learned about his family. I know few details about the burden Mr. Matthiesen carried caring for his mother, who is very ill, but what I learned proved just another of many examples that this young man is one of the most mature, accomplished, and capable law students that I have met in my 35 years in the legal academy. He will be an asset to your chambers. I highly recommend Michael Matthiesen to serve as your law clerk without any reservations or qualifications whatsoever.

Sincerely yours,

Dayna Bowen Matthew
Dean and Harold H. Greene Professor of Law

Dayna Matthew - lawdeanmatthew@law.gwu.edu

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052

May 13, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I write in enthusiastic support of Michael Matthiesen's judicial clerkship application. Michael is not a typical law student; he brings to the study of law a rich background as a scholar of health care philosophy, politics and economics. In my view, this type of background is invaluable to the study of any area of law, and especially health law.

Michael was a marvelous student in my fall 2020 health law course. He displays all of the brilliance, inquisitiveness, and creativity one might expect from a lawyer with such an intellectually rich background. Michael would be an asset in any judicial forum. He clearly has the ability to carry out the high quality, complex legal analyses that a judicial clerkship demands. But Michael's unique background and training mean that he also would bring to his clerkship duties a level of maturity not found among typical law graduates. Because of the pathway to law Michael has traveled, he has the capacity to work at a very high level, at the intersection of abstract and complex legal research on one hand and the real world in which legal disputes arise and judicial cases proceed.

I must note that, as with all other endeavors during this pandemic year, teaching was a real challenge for teachers and students alike – especially so with respect to very dense, complicated areas of law such as health law. The course that Michael took covers many of the topics that lie at the intersection of the health care system and the law and requires extensive reading and intellectual commitment. I love teaching health law because it is a subject that demands thinking about some of the most difficult issues any society faces while also being one that touches everyone's life. Naturally, I love the course more when my students are active, engaged, come prepared, and are ready to dive in during each two-hour session of a four-hour, semester-long course. Michael was one of those students, just always so present. I raise this issue because I think it provides insight into the type of commitment any court would receive from Michael in his role as a clerk.

Sincerely,

Sara Rosenbaum J.D.
Harold and Jane Hirsh Professor, Health Law and Policy
Founding Chair, Department of Health Policy

Sara Rosenbaum - srosenbaum@law.gwu.edu

MICHAEL MATTHIESEN

2030 F Street NW Apt 211, Washington, D.C 20006 • (305) 926-3664 • mmatthiesen@law.gwu.edu

WRITING SAMPLE

The attached writing sample is a judicial order I drafted while interning with Judge Royce Lamberth. This is the final version of the order which was edited by Judge Lamberth and his clerks.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FREDERICK C. TROTTER,

Plaintiff,

v.

Case No. 1:19-cv-2008-RCL

**CENTER FOR MEDICARE AND
MEDICAID SERVICES,**

Defendant.

MEMORANDUM OPINION

Plaintiff Frederick C. Trotter sued the Center for Medicare and Medicaid Services (“CMS”) under the Freedom of Information Act (“FOIA”) to compel disclosure of two types of information: first, the domain portions of email addresses associated with CMS-registered healthcare providers, and second, the providers’ corresponding national provider identification numbers (“NPI numbers”). *See* Compl., ECF No. 1. On February 8, 2021, this Court rejected the bulk of Trotter’s arguments and granted summary judgment in part to CMS. *See Trotter v. Ctr. For Medicare & Medicaid Servs.*, 517 F. Supp. 3d 1 (D.D.C. 2021). But the Court found that CMS could not withhold the domains of providers who participate in electronic health-information exchange because this information is already disclosed to the public. *Id.* at 9. Accordingly, the Court granted partial summary judgment to Trotter for this narrow subset of the requested information.

Now, Trotter moves for attorneys’ fees and costs under 5 U.S.C. § 552(a)(E)(i) for the results of his FOIA litigation. *See* Pl.’s Mot. For Att’ys Fees (“Pl.’s Mot.”), ECF No. 37; Pl.’s Mem. in Support (“Pl.’s Mem”), ECF No. 37-12. CMS opposes. Def.’s. Opp’n, ECF No. 40. Trotter filed a reply in support of his motion. Pl.’s Reply, ECF No. 41-16. Upon consideration of

the parties' filings, ECF Nos. 37, 37-12, 40, 41, 41-16, applicable law, and the entire record herein, the Court will **DENY** Trotter's motion for attorneys' fees and costs.

I. BACKGROUND

Federal regulations require virtually every healthcare provider to register with CMS and obtain a unique identification number (the NPI number). *See generally* 45 C.F.R. ch. 162. To obtain an NPI number, providers must register with a database and provide certain contact information—including an email address. *See Trotter*, 517 F. Supp. 3d at 1. Trotter is a “journalist, data journalist, and part-owner and founder” at CareSet Journal. Frederick Trotter Decl. ¶ 1, ECF No. 37-1. In January 2014, Trotter submitted a FOIA request to CMS for the email addresses associated with each NPI number. *See Trotter*, 517 F. Supp. 3d at 1. CMS identified 6,380,915 active providers. *Id.* at 4. But CMS informed Trotter that it would withhold the full email addresses to protect the healthcare providers' privacy. *Id.* Trotter subsequently amended his request to ask only for the domains associated with each provider.¹ *Id.* CMS—again—asserted the providers' privacy interests and refused to release the domains. *Id.* After exhausting his administrative remedies, Trotter filed this lawsuit to compel CMS's disclosure of (1) the domain portion of the email address associated with each healthcare provider registered with CMS and (2) the NPI numbers associated with these addresses. *See id.*

On February 8, 2021, this Court granted in part and denied in part the parties' cross-motions for summary judgment. *Id.* at 9. First, the Court rejected Trotter's arguments that CMS's search for records was inadequate. *Id.* at 6. Next, the Court concluded that CMS had properly invoked the FOIA's privacy exception for withholding the domains of providers who do not participate in

¹ “An email address consists of a local-part, the ‘@’ symbol, and a domain. For example, in the email address bevo@utexas.edu, ‘bevo’ is the local-part and ‘utexas.edu’ is the domain.” *Trotter*, 517 F. Supp. 3d at 1 n.1.

health-information exchange (a digital records sharing program with CMS). *Id.* at 8. However, the Court ordered CMS to disclose the email domains of providers who participate in the health-information exchange because CMS already publicly discloses their information and “[these providers] no longer have an interest in maintaining the privacy of their domains.” *Id.* at 7. Rather than receiving information for the 6,380,915 active providers that CMS identified, Trotter received only 203,939 lines of provider information. *See Trotter*, 517 F. Supp. 3d at 1; Frederick Trotter Decl. ¶ 19.

Trotter now moves for \$189,685.85 in attorneys’ fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E)(i). CMS concedes that Trotter is eligible for attorney’s fees under the FOIA, but disputes whether Trotter is entitled to a fee award. Def.’s Opp’n 5. Trotter filed a reply in support of his motion. Pl.’s Reply.

Trotter’s motion for attorneys’ fees is ripe for review.

II. LEGAL STANDARDS

The FOIA permits attorney-fee awards “to encourage [FOIA] suits that benefit the public interest.” *LaSalle Extension Univ. v. FTC*, 627 F.2d 481, 484 (D.C. Cir. 1980). Accordingly, courts may assess against the United States attorneys’ fees and other litigation costs reasonably incurred in any case when the complainant has substantially prevailed. 5 U.S.C. § 552(a)(4)(E)(i); *see Morley v. CIA (Morley II)*, 894 F.3d 389, 391 (D.C. Cir. 2018). Courts considering whether to grant attorneys’ fees consider two prongs—eligibility and entitlement. *See Church of Scientology of Cal. v. Harris*, 653 F.2d 584, 587 (D.C. Cir. 1981).

First, a court must determine whether the plaintiff is eligible for fees. This prong is not at issue here. The parties agree that Trotter “substantially prevailed” and is eligible for fees. Pl.’s Mem. 4; Def.’s Opp’n 5; *see Grand Canyon Tr. v. Bernhardt*, 947 F.3d 94, 95 (D.C. Cir. 2020)

(explaining that plaintiffs who “obtained relief” through a “judicial order, or an enforceable written agreement or consent decree” have “substantially prevailed” and are eligible for fees).

But Trotter’s eligibility is not the end of the matter. The Court must determine whether Trotter is entitled to fees. *See Jud. Watch Inc. v. Dep’t of Commerce*, 470 F.3d 363, 369 (D.C. Cir. 2006) (explaining that eligibility does not determine entitlement under the FOIA). The touchstone of this inquiry is whether an attorneys’ fee award is necessary to implement the FOIA. *See Davy v. CIA*, 550 F.3d 1155, 1158 (D.C. Cir. 2008) (citing *Nationwide Bldg. Maint., Inc. v. Sampson*, 559 F.2d 704, 715 (D.C. Cir. 1977)). Four factors guide this inquiry: “(1) the public benefit derived from the case; (2) the commercial benefit to the plaintiff; (3) the nature of the plaintiff’s interest in the records; and (4) the reasonableness of the agency’s withholding of the requested documents.” *Tax Analysts v. Dep’t of Justice*, 965 F.2d 1092, 1093 (D.C. Cir. 1992); *see Morley v. CIA (Morley I)*, 810 F.3d 841, 842 (D.C. Cir. 2016). “[T]he first three factors assist a court in distinguishing between requesters who seek documents for public informational purposes and those who seek documents for private advantage.” *Davy*, 550 F.3d at 1160. The first category of requesters need a fee incentive to litigate, the latter do not. *Id.* The Court has discretion to balance these factors and determine a fee award. *See id.* at 1158.

III. DISCUSSION

The parties agree that Trotter is eligible for an attorney-fee award because he achieved a favorable result from this Court. *See Trotter*, 517 F. Supp. 3d at 9; Pl.’s Mem. 4; Def.’s Opp’n 5. The Court agrees and need not engage in an eligibility analysis here.

But the Court, weighing the four factors identified by the D.C. Circuit, finds that Trotter is not entitled to attorneys’ fees. Trotter fails to identify a public benefit derived from this case and CMS acted reasonably in withholding the requested information. So, while Trotter’s role as a data

journalist weighs in his favor, the Court finds, on balance, that Trotter has failed to establish his entitlement to attorneys' fees.

A. Trotter Has Failed To Identify A Public Benefit Derived The Case

The first factor that the Court weighs is “the public benefit derived from the case.” *Kwoka v. IRS*, 989 F.3d 1058, 1063 (D.C. Cir. 2021). There are two components to the public benefit inquiry. The first analyzes the “effect of the litigation.” *Morley I*, 810 F.3d at 844 (quoting *Davy*, 550 F.3d at 1159). The second—and more important component—“requires an *ex ante* assessment of the potential public value of the information requested.” *Id.*

As to the effect of the litigation, this component focuses only on whether the litigation caused an agency to release the requested documents. *Morley I*, 810 F.3d at 844 (citing *Davy*, 550 F.3d at 1159). This FOIA litigation caused the release of 203,939 lines of information. *See Trotter*, 517 F. Supp. 3d at 7; Pl.'s Mem. 7. But the mere release of information is not sufficient to swing the public-benefit factor in Trotter's favor. *See Cotton v. Heyman*, 63 F.3d 1115, 1120 (D.C. Cir. 1995) (explaining that the public-benefit prong turns on “evaluat[ing] the specific documents at issue in the case at hand”). Moreover, the public already had access to much of this information. Any effect of Trotter's lawsuit was minimal.²

The second (and more important) component of the public benefit inquiry requires the Court to make “an *ex ante* assessment of the potential value of the information requested, with little or no regard to whether the documents supplied prove to advance the public interest.”

² Trotter tries to gain additional mileage from this component by arguing that this case “provided CMS as well as its participants with clear judicial guidance as to what records health providers can expect to remain private, and others that are clearly designed to be public.” Pl.'s Mem. 8. The Court is not persuaded. Even if this Court were to consider this argument here, it is a longstanding, established principle that “if identical information is truly public, then enforcement of an exemption cannot fulfill its purposes” and the information must be released. *Niagara Mohawk Power Corp. v. Dep't of Energy*, 169 F.3d 16, 19 (D.C. Cir. 1999). It is hardly the case that the Court's holding in this litigation provided citizens with new or “better tools with which to obtain government information.” Pl.'s Reply 8.

Morley I, 810 F.3d at 844. While “the release of any government document benefits the public by increasing its knowledge of its government . . . Congress did not have this broadly defined benefit in mind” when authorizing attorneys’ fees in FOIA cases. *Cotton*, 63 F.3d at 1120. Instead, Trotter must show “at least a modest probability of generating useful new information about a matter of public concern.” *Id.* This includes the possibility that citizens may use the information to make “vital political choices.” *Fenster v. Brown*, 617 F.2d 740, 744 (D.C. Cir. 1979).

This second component swings the public-interest factor in favor of CMS. Trotter’s fee request relies on many of the same arguments and conclusory statements that the Court previously determined were inadequate. For example, Trotter rehashes his claim that the obtained data provide insights into how CMS performs its statutory and regulatory duties and whether CMS is reducing “waste, fraud, and abuse.” *Compare* Pl.’s Mem. 8, *with Trotter*, 517 F. Supp. 3d at 8. But like before, Trotter fails to “show a nexus” between the email domains and “how CMS addresses waste, fraud, and abuse.” *Trotter*, 517 F. Supp. 3d at 8. Trotter states that the released data “make[] it simpler to test which provider-to-hospital relationship should be regarded as primary,”—which means the organization is “willing to spend money to enable the provider to exchange healthcare data using CMS-approved digital protocols.” Pl.’s Mem. 8. One year on, this assertion is “speculative because he provides no reason to believe that a provider’s domain has any connection to his primary organization.” *Trotter*, 517 F. Supp. 3d at 9. Nor does Trotter explain how a domain link between an individual provider and their associated organization illuminates whether the organization is “willing to spend money to enable the provider to exchange healthcare data using CMS-approved protocols.” Pl.’s Mem. 8, *see Trotter*, 517 F. Supp. 3d at 9 (“Trotter[] . . . does not explain how knowledge about a provider’s primary organization leads to information about clinical

approach.”). Finally, Trotter again fails to explain how the data obtained is useful to detecting waste, fraud, and abuse. *See Trotter*, 517 F. Supp. 3d at 9.³

Trotter’s belated attempts to plug the holes in his sinking arguments cannot succeed. In his reply, Trotter explains how the domains were used in his study and provides a copy of the study itself. *See, e.g.*, Pl.’s Reply 5–8; Alma Trotter Decl. ¶¶ 22–29, ECF No. 41-1. Because he raised these arguments for the first time in his reply filings, they are forfeited. *See MBI Grp., Inc. v. Credit Foncier Du Cameroun*, 616 F.3d 568, 575 (D.C. Cir. 2010). The Court could not consider them anyway, for this factor requires an “*ex ante* assessment” of potential value. *Morley I*, 810 F.3d at 844.⁴

Finally, Trotter contends that he “has demonstrated his ability to disseminate the information obtained by this litigation to a high degree” through his website, newsletter, and data sharing processes. Pl.’s Mem. 7. This argument does not affect the Court’s public-benefit analysis. Nearly half of the information that CMS released was already available to the public. *See Alma*

³ Trotter repeats his claims that the data will facilitate epidemiological studies, but he again fails to explain how those studies shed light on CMS’s functions as opposed to public health issues in general. *See Trotter*, 517 F. Supp. 3d at 8 n.4.

⁴ Even if Trotter overcame these two hurdles, the Court remains skeptical that Trotter can show a nexus between the released domains and the public interests that he identifies. Given the forfeiture, the Court will provide only a brief preview of potential issues here. Trotter appears to have used the domains’ corresponding websites to conclude that thousands of providers receiving incentive funding from CMS do not permit patients to receive their healthcare records electronically. *See Alma Trotter Decl.* ¶¶ 24–29. But Trotter provides no explanation of the regulatory framework governing payments under CMS’s incentive program. If individual providers receiving incentive payments must certify that they are complying with the program, why should the inquiry as to whether they provide patients with electronic access to healthcare records end with their associated clinical organization’s website? *See Alma Trotter Decl.* ¶ 53; ECF No. 41-10 at 5. *See generally* Center for Medicare & Medicaid Services, Public Use Files, <https://tinyurl.com/2uxndhry>; Center for Medicare & Medicaid Services, Registration & Attestation, <https://tinyurl.com/2sn69s8t>, ECF No. 41-10. Presumably, providers receiving incentive payments as individuals may have their own methods of providing electronic access to records that are not related to an associated clinical organization. *See Trotter*, 517 F. Supp. 3d at 9.

And beyond patients’ electronic access to healthcare records—which is the focus of Trotter’s study—CMS’s incentive program has other objectives. *See, e.g.*, Center for Medicare & Medicaid Services, Medicare and Medicaid Promoting Interoperability Program Basics, <https://tinyurl.com/mw4rd465> (identifying “Electronic Prescribing, Health Information Exchange, and Public Health and Clinical Data Exchange” as additional objectives). At this juncture, Trotter fails to show how the funds identified are the subject of waste, fraud, and abuse when they may well be furthering CMS’s additional objectives.

Trotter Decl. ¶ 53. And there is “no public interest” in releasing documents already provided to the public. *Hooker v. U.S. Dep’t of Health & Hum. Servs.*, No. 1:11-cv-1276 (ABJ), 2013 WL 12468053, at *4 (D.D.C. Oct. 11, 2013).

For these reasons, the Court finds that the first factor weighs heavily in favor of CMS.

B. The Commercial Benefit to Trotter and The Nature of Trotter’s Interests In The Records Sought Lean In His Favor

The second and third entitlement factors lean in favor of Trotter. These factors address whether Trotter had a “sufficient private incentive” to pursue his FOIA request even without the prospect of obtaining attorneys’ fees. *McKinley v. Fed. Hous. Fin. Agency*, 739 F.3d 707, 712 (D.C. Cir. 2014) (citing *Davy*, 550 F.3d at 1160). These factors “‘generally’ should weigh in favor of scholars and journalists ‘unless their interest was of a frivolous or purely commercial nature.’” *Kwoka*, 989 F.3d at 1064 (quoting *Davy*, 550 F.3d at 1160–61).

Trotter does not have a personal or commercial interest in this case. Rather, he has acted within the scope of his professional role as a “data journalist.” Pl.’s Mem. 1; Def.’s Opp’n 17. CMS does not contend that Trotter’s scholarly interests are frivolous or purely commercial. Instead, CMS focuses on the structure of Trotter’s business, CareSet Journal. *Id.* CMS argues that that because CareSet Journal’s commercial arm is “tight[ly] link[ed]” with its journalistic arm, Trotter has personal and commercial interests in the information that are “sufficient to ensure the vindication of the rights given in the FOIA.” *Id.* (citing *Fenster v. Brown*, 617 F.2d 740 (D.C. Cir. 1979)). The Court is not persuaded.

These two factors should “generally aid scholars and journalists even if, in some cases, they do not weigh strongly in a plaintiff’s favor and therefore ultimately ‘do little to advance [their] position’ when weighing all four factors.” *Kwoka*, 989 F.3d at 1064–65 (quoting *McKinley*, 739 F.3d at 712). Trotter rightfully points out that even if CareSet Journal receives a pecuniary benefit

from NPI numbers and domain names, journalistic efforts are special. *Kwoka*, 989 F.3d at 1064. Other news organizations might have “tight linkage” between their commercial and journalistic arms—but the D.C. Circuit and courts in this district have time and again recognized that these entities are “among those whom Congress intended to be favorably treated under FOIA’s fee provision.” *Davy*, 550 F.3d at 1162; see *WP Co. LLC v. U.S. Small Bus. Admin.*, 514 F. Supp. 3d 267 (D.D.C. 2021); *Washington Post v. U.S. Department of Defense*, 789 F. Supp. 423 (D.D.C. 1992). So too here. “[S]cholarly interest, regardless of private incentive, generally should not be considered commercial.” *Kwoka*, 989 F.3d at 1065. Since CMS does not refute Trotter’s role as a journalist (data journalist or otherwise), the Court will not treat his interest as commercial.

Accordingly, the Court finds that the second and third factors weigh in favor of Trotter. But while these factors weigh in favor of Trotter because of his uncontested status as a “data journalist,” they do “little to advance [his] position when weighing all four factors.” *McKinley*, 739 F.3d at 712.

C. CMS Acted Reasonably

The final factor cuts decisively in favor of CMS. This factor requires the Court to evaluate whether CMS “had a reasonable basis in law” for opposing disclosure and whether CMS was “recalcitrant in its opposition to a valid claim or otherwise engaged in obdurate behavior.” *McKinley*, 739 F.3d at 712 (internal citations omitted). It is the agency’s burden to show that it had a colorable or reasonable basis for not disclosing the material. *Edelman v. Sec. & Exch. Comm’n*, 356 F. Supp. 3d 97, 108 (D.D.C. 2019) (quoting *Davy*, 550 F.3d at 1163). “If the Government’s position is correct as a matter of law, that will be dispositive. If the Government’s position is founded on a colorable legal basis in law that will be weighed along with other relevant considerations in the entitlement calculus.” *Davy*, 550 F.3d at 1162 (citations omitted); see *Kwoka*,

989 F.3d at 1159 (explaining that while “no one factor is dispositive . . . the court will not assess fees when the agency has demonstrated that it had a lawful right to withhold disclosure”). This inquiry focuses on the reasonableness of the agency’s position throughout the litigation, even if the Court ultimately ordered disclosure. *See Edelman*, 356 F. Supp. 3d at 108.

CMS contends that, in response to Trotter’s first request, it reasonably withheld the full email addresses of providers to protect their personal privacy. Def.’s Opp’n 12. Even Trotter seems to agree that CMS’s initial assertion of the FOIA’s personal-privacy exemption (Exemption 6) was reasonable because he amended his request from “the email addresses of the healthcare providers” to just “the domain names of all healthcare providers’ email addresses.” *Id.* at 8.

After considering Trotter’s amended request, CMS again invoked FOIA Exemption 6. This Court agreed that CMS “demonstrated privacy interests in shielding the domains of providers who do not participate in health-information exchange . . . [and Trotter] identified no public interest in disclosing them.” *See Trotter*, 517 F. Supp. 3d at 9. CMS’s decision to withhold most of the requested domains was not only reasonable, it was also correct. And Trotter is not entitled to fees where the government’s actions were legally justified. *See Davy*, 550 F.3d at 1162.

The remaining issue is whether the other, wrongfully withheld domains affect how the Court balances this factor. They do not. Trotter’s success in this litigation stems only from CMS’s failure to segregate the 3.2% of domains for providers that participate in a health-information exchange. But Trotter does not appear to have argued—until this litigation—that CMS needed to segregate domains of providers that participate in health-information exchange from the other domains. Trotter’s FOIA request did not distinguish between these two categories of domains. *See* ECF No. 23-6. Instead, Trotter focused his segregation arguments on whether CMS could segregate solo practitioners from all other healthcare providers. *See* ECF No. 25-1 at 9.

In light of these broad requests, the Court concludes that CMS's withholdings were reasonable. CMS implemented a global response rooted in sound FOIA principles, its policy notice in the Federal Register, and good faith. None of CMS's summary-judgment filings disputed the release of these specific domains or this particular issue. *Cf. Kwoka*, 989 F.3d at 1066. For the small subset of domains that were ultimately released, the Court agreed with CMS that there is *no* public interest in their disclosure. *See Trotter*, 517 F. Supp. 3d at 9. And in regard to the privacy interests at stake, the released data indicate that not all the domains of providers participating in information exchange were even previously available to the public. *See, e.g., Alma Trotter* ¶ 51.


At bottom, the Court cannot say that CMS's position was unreasonable or that CMS's behavior was "recalcitrant" or "obdurate" when it was correct on the vast majority of its claims and the legal framework that was the focus of this litigation. *See People for the Ethical Treatment of Animals v. USDA*, No. 1:03-cv-195, 2006 WL 508332, at *5 (D.D.C. Mar. 3, 2006) (concluding that, if an agency prevails "on the majority of its [FOIA exemption] claims, its overall position was reasonable"). Based on its legal position, the Court concludes that CMS acted reasonably in its withholding. This factor weighs heavily in favor of CMS.

Upon consideration of the four factors, the Court finds that the balancing test weighs in favor of CMS and that Trotter is not entitled to attorneys' fees.

IV. CONCLUSION

Based on the foregoing, the Court will deny Trotter's motion for attorneys' fees by separate order.

Date: 3/29/22


 Royce C. Lamberth
 United States District Judge

Applicant Details

First Name	Lindsey
Middle Initial	K
Last Name	McCready
Citizenship Status	U. S. Citizen
Email Address	mccrealk@miamioh.edu
Address	<div> <div>Address</div> <div> <div>Street</div> <div>25 Bexley Ave</div> <div>City</div> <div>Springfield</div> <div>State/Territory</div> <div>Ohio</div> <div>Zip</div> <div>45503</div> <div>Country</div> <div>United States</div> </div> </div>
Contact Phone Number	9373608531

Applicant Education

BA/BS From	Miami University of Ohio
Date of BA/BS	May 2019
JD/LLB From	William & Mary Law School
	http://law.wm.edu
Date of JD/LLB	May 22, 2022
Class Rank	33%
Law Review/Journal	Yes
Journal(s)	Journal of Race, Gender, and Social Justice
Moot Court Experience	No

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	Yes
--------------------------------------	-----

Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

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administration@lawrencelawoffice.com

Hendrickson, Erin J.
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757-221-7457

Marcus, Paul
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757-221-3900

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Lindsey K. McCready

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Williamsburg, VA 23185

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(937) 360 – 8531

February 10, 2022

The Honorable John Bates
United States District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington D.C. 20001

Dear Judge Bates:

Please consider me for a clerkship with your chambers for the 2022-2023 clerkship term. I attend William & Mary Law School and will graduate in May 2022. I currently serve as the Senior Notes Editor on the Journal for Race, Gender & Social Justice. I am planning to relocate to Washington, DC upon graduation.

I have worked as a clerk with two (2) different law firms. While working for these firms, I completed many in-depth research projects. I drafted legal memoranda and pleadings daily. As a Fellow for Judge Nick Selvaggio, Champaign County Court of Common Pleas, I created a docket management system, which allowed the Court to track current cases and engage in live time review of statistics regarding the speed at which cases proceeded from initial appearances to disposition.

While completing my second year at William & Mary, I conducted extensive research on federal and state sex trafficking laws and compiled my research into a journal note on groundbreaking defenses for “victim-perpetrators”. During this experience, I focused on attention to detail, enhancing my research and writing skills, and becoming proficient in complex citation references. As a result of my work, I was selected as Senior Notes Editor of the journal for the current academic year. In that role, I am reviewing articles and notes and guiding new members of the journal in research, writing, and citation skills.

Enclosed is a copy of my resume, undergraduate and law school transcripts, writing sample, and letters of recommendation. I believe that my skills and experience will make me an ideal clerk for the District Court of the District of Columbia.

Please feel free to contact me by cell phone at (937) 360-8531 or email at lkmccready@email.wm.edu. I welcome the opportunity to interview for the position and look forward to hearing from you.

Sincerely,

Lindsey K. McCready

Lindsey K. McCready

Lindsey K. McCready

25 Bexley Avenue
Springfield, Ohio 45503
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3950 Battery Boulevard, Apt. 104
Williamsburg, Virginia 23185
(937) 360 – 8531

EDUCATION

William & Mary Law School, Williamsburg, Virginia

J.D. expected May 2022

G.P.A.: 3.5

Honors: *Journal of Race, Gender, and Social Justice*, Senior Notes Editor
William & Mary Law Merit Scholarship (3 years, full tuition)
Activities: Health Law and Policy Society
Public Service Fund
PELE Special Education Clinic, Student Advocate

Miami University, Oxford, Ohio

B.A., *magna cum laude*, Political Science and Psychology majors, Business Legal Studies minor, May 2019

G.P.A.: 3.9

Honors: Phi Beta Kappa
Redhawk Excellence Scholarship (four-year merit scholarship)
University Honors Program and Academic Scholar for Law and Public Policy
Activities: Amicus Curiae Pre-Law Society. President, Vice President of Pre-Law Relations
Undergraduate Assistant for Dr. Mark Morris's Public Management & Leadership Class
Research Assistant for Dr. Monica Schneider
Mock Trial, Attorney

EXPERIENCE

Martin, Browne, Hull & Harper, PLL, Springfield, Ohio

Summer Associate

May to August 2021

Administrative Assistant, Clerk

March 2015 to August 2019

Researched and drafted memoranda in various subject areas, including labor and employment, corporate, non-profit, real estate, and local government. Drafted pleadings, contracts, and non-profit governance documents.

Lawrence Law Office, Columbus, Ohio

May 2020 to present

Clerk: Drafted court documents, including motions, briefs, and memoranda. Prepared for domestic relations hearings by drafting questions, attending depositions, and outlining direct and cross-examination and opening statements. Worked directly with firm clients to assist attorneys to be more efficient and effective. Set up HotDocs automated document creation system for the firm and incorporated firm's existing documents into system to increase productivity and accessibility.

Mercy Health, Cincinnati, Ohio

May to August 2018

Advocacy Intern: Researched and prepared oral and written summaries on healthcare issues, including opioids, medical marijuana, and Stark Law. Participated in meetings with advocacy professionals to develop position statements.

Congressman Warren Davidson, Washington, D.C.

June to July 2017

Intern: Researched policy questions, focusing on education, to develop position statements. Provided constituent services, including guided tours of the U.S. Capitol and responses to telephone and written inquiries.

Ohio Public Leader Fellowship, Urbana, Ohio

January 2017

Fellow: Assisted Judge Nick A. Selvaggio by evaluating court efficiencies to improve docket management. Attended meetings of the Ohio Sentencing Commission.

Association for Title IX Administrators, Columbus, Ohio

June to December 2016

Intern: Reviewed and wrote memoranda on court cases and investigated Title IX issues. Attended certification training for Title IX investigators.

COMMUNITY SERVICE

Volunteer, Community Mercy Foundation, Springfield, Ohio

November 2008 to present

Blood Donor

2011 to present

Advisor, Kappa Delta, Williamsburg, Virginia

August 2019 to present



Unofficial Transcript

Note to Employers from the Office of Career Services regarding Grade Point Averages and Class Ranks:

- Transcripts report student GPAs to the nearest hundredth. **Official GPAs are rounded to the nearest tenth and class ranks are based on GPAs rounded to the nearest tenth.** We encourage employers to use official Law School GPAs rounded to the nearest tenth when evaluating grades.
- Students are ranked initially at the conclusion of one full year of legal study. Thereafter, they are ranked only at the conclusion of the fall and spring terms. William & Mary does not have pre-determined GPA cutoffs that correspond to specific ranks.
- Ranks can vary by semester and class, depending on a variety of factors including the distribution of grades within the curve established by the Law School. Students holding a GPA of 3.6 or higher will receive a numerical rank. All ranks of 3.5 and lower will be reflected as a percentage. The majority of the class will receive a percentage rather than individual class rank. In either case, it is likely that multiple students will share the same rank. Students with a numerical rank who share the same rank with other students are notified that they share this rank. Historically, students with a rounded cumulative GPA of 3.5 and above have usually received a percentage calculation that falls in the top 1/3 of a class.
- Please also note that transcripts may not look the same from student-to-student; some individuals may have used this Law School template to provide their grades, while others may have used a version from the College's online system.

COVID-19 PANDEMIC: GRADES FOR THE SPRING 2020 TERM

In response to disruption caused by the global COVID-19 pandemic, the William & Mary Law School faculty voted to require that every course taught at the Law School during the Spring 2020 term be graded Pass/Fail. This change to Pass/Fail grading for the Spring 2020 term impacts members of our Classes of 2020, 2021, and 2022. Please note that "Pass" grades in courses graded on a Pass/Fail basis do not affect a student's GPA. As a result, class ranks for the Classes of 2020 and 2021 were not re-calculated following the Spring 2020 term, and the Class of 2022 received their initial ranking only after the Fall 2020 term.

Transcript Data	
STUDENT INFORMATION	
Name :	Lindsey K. McCready
Curriculum Information	
Current Program	
Juris Doctor	
College:	School of Law
Major and Department:	Law, Law
***Transcript type:WEB is NOT Official ***	
DEGREES AWARDED	
Applied:	Juris Doctor
Degree Date:	


Curriculum Information							
Primary Degree							
College:	School of Law						
Major:	Law						
	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA	
Institution:	75.000	75.000	75.000	53.000	183.80		3.46
INSTITUTION CREDIT -Top-							
Term: Fall 2019							
Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	101	LW	Criminal Law	B+	4.000	13.20	
LAW	102	LW	Civil Procedure	A-	4.000	14.80	
LAW	107	LW	Torts	B	4.000	12.00	
LAW	130	LW	Legal Research & Writing I	A-	2.000	7.40	
LAW	131	LW	Lawyering Skills I	H	1.000	0.00	
Term Totals (Law - First Professional)							
					Attempt Hours	Passed Hours	Earned Hours
					GPA Hours	Quality Points	GPA
Current Term:					15.000	15.000	15.000
Cumulative:					15.000	15.000	15.000
					14.000	47.40	3.38
					14.000	47.40	3.38
Unofficial Transcript							
Term: Spring 2020							
Term Comments:				Universal Pass/Fail grading was mandated by the faculty for all Spring 2020 Law classes due to the COVID-19 pandemic. Students had no option to choose ordinary letter grades.			
Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	108	LW	Property	P	4.000	0.00	
LAW	109	LW	Constitutional Law	P	4.000	0.00	
LAW	110	LW	Contracts	P	4.000	0.00	
LAW	132	LW	Legal Research & Writing II	P	2.000	0.00	
LAW	133	LW	Lawyering Skills II	P	2.000	0.00	
Term Totals (Law - First Professional)							
					Attempt	Passed	Earned
					GPA	Quality	GPA

				Hours	Hours	Hours	Hours	Points	
Current Term:				16.000	16.000	16.000	0.000	0.00	0.00
Cumulative:				31.000	31.000	31.000	14.000	47.40	3.38
Unofficial Transcript									
Term: Fall 2020									
Subject	Course	Level	Title		Grade	Credit Hours	Quality Points	R	
LAW	115	LW	Professional Responsibility		A	2.000	8.00		
LAW	309	LW	Evidence		A	4.000	16.00		
LAW	370	LW	Food and Drug Law		B+	3.000	9.90		
LAW	421	LW	Voting Rights Litigation&Prac		P	1.000	0.00		
LAW	477	LW	Section 1983 Litigation		B	3.000	9.00		
LAW	763	LW	Journal Race,Gender,& Soc Just		P	1.000	0.00		
Term Totals (Law - First Professional)									
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:				14.000	14.000	14.000	12.000	42.90	3.57
Cumulative:				45.000	45.000	45.000	26.000	90.30	3.47
Unofficial Transcript									
Term: Spring 2021									
Subject	Course	Level	Title		Grade	Credit Hours	Quality Points	R	
LAW	140C	LW	Adv Writing&Practice:Criminal		B+	2.000	6.60		
LAW	401	LW	Crim Proc I (Investigation)		B+	3.000	9.90		
LAW	453	LW	Administrative Law		B+	3.000	9.90		
LAW	456	LW	Employment Law		B+	3.000	9.90		
LAW	458	LW	Health Law and Policy		B+	3.000	9.90		
LAW	763	LW	Journal Race,Gender,& Soc Just		P	1.000	0.00		
Term Totals (Law - First Professional)									
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:				15.000	15.000	15.000	14.000	46.20	3.30
Cumulative:				60.000	60.000	60.000	40.000	136.50	3.41

Unofficial Transcript									
Term: Fall 2021									
Subject	Course	Level	Title			Grade	Credit Hours	Quality Points	R
LAW	305	LW	Trust and Estates			A-	3.000	11.10	
LAW	422	LW	Accting & Finance for Lawyers			A-	2.000	7.40	
LAW	452	LW	Employment Discrimination			A-	3.000	11.10	
LAW	619	LW	Supreme Court Seminar			B+	2.000	6.60	
LAW	763	LW	Journal Race,Gender,& Soc Just			P	2.000	0.00	
LAW	782	LW	Special Educ Advocacy Clinic I			A-	3.000	11.10	
Term Totals (Law - First Professional)									
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA	
Current Term:			15.000	15.000	15.000	13.000	47.30		3.63
Cumulative:			75.000	75.000	75.000	53.000	183.80		3.46
Unofficial Transcript									
TRANSCRIPT TOTALS (LAW - FIRST PROFESSIONAL)						-Top-			
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA	
Total Institution:			75.000	75.000	75.000	53.000	183.80		3.46
Total Transfer:			0.000	0.000	0.000	0.000	0.00		0.00
Overall:			75.000	75.000	75.000	53.000	183.80		3.46
Unofficial Transcript									
COURSES IN PROGRESS			-Top-						
Term: Spring 2022									
Subject	Course	Level	Title				Credit Hours		
LAW	320	LW	Business Associations				4.000		
LAW	351	LW	Alternat Disput Resolut Survey				2.000		
LAW	440	LW	Federal White Collar Crime				3.000		
LAW	745	LW	Domestic Violence Clinic				3.000		
LAW	763	LW	Journal Race,Gender,& Soc Just				2.000		
Unofficial Transcript									

Academic Transcript

+01505631 LindseyK. McCready
Apr 23, 2021 04:42 pm

 This is not an official transcript. Courses which are in progress may also be included on this transcript.

[Transfer Credit](#) [Institution Credit](#) [Transcript Totals](#)

Transcript Data

STUDENT INFORMATION

Name : LindseyK. McCready

Curriculum Information

Current Program

Bachelor of Arts

Program: Bachelor of Arts
College: College of Arts and Science
Campus: Oxford
Major and Department: Political Science, Political Science
Major Concentration: Basic Program (no submajor)
Major Concentration: Met With Second Major
Major and Department: Psychology, Psychology
Major Concentration: Basic Program (no submajor)
Major Concentration: Met With Second Major
Minor: Business Legal Studies

This is NOT an Official Transcript

DEGREES AWARDED

Awarded: Bachelor of Arts **Degree Date:** May18, 2019

Institutional Honors: Magna Cum Laude, University Honors

Curriculum Information

Primary Degree

Program: Bachelor of Arts
College: College of Arts and Science
Major: Political Science
Major Concentration: Basic Program (no submajor)
Major Concentration: Met With Second Major
Major: Psychology
Major Concentration: Basic Program (no submajor)
Major Concentration: Met With Second Major
Minor: Business Legal Studies

TRANSFER CREDIT ACCEPTED BY INSTITUTION -Top-

201610-1610: Advanced Placement

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
ENG	111	Composition and Rhetoric	AP	3.000		0.00
ENG	122	Popular Literature	AP	3.000		0.00
MTH	151	Calculus I	AP	5.000		0.00

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	0.000	0.000	11.000	0.000	0.00	0.00

Unofficial Transcript

INSTITUTION CREDIT [-Top-](#)

Term: Fall Semester 2015-16

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing
Additional Standing: Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R
FRE	201	Oxford	UG	Intermediate French	A	3.000	12.00		
HST	296H	Oxford	UG	World History Since 1945	A	3.000	12.00		
ITS	201H	Oxford	UG	Intro To International Studies	A-	3.000	11.10		
PLW	101	Oxford	UG	Exploring Careers in Law I	X	1.000	0.00		
POL	221W	Oxford	UG	Modern World Governments	A-	3.000	11.10		
POL	345E	Oxford	UG	Supreme Court Decisions	A	3.000	12.00		

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	16.000	16.000	16.000	15.000	58.20	3.88
Cumulative:	16.000	16.000	16.000	15.000	58.20	3.88

Unofficial Transcript

Term: Spring Semester 2015-16

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing
Additional Standing: Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R
BIO	155	Oxford	UG	Field Botany	A	3.000	12.00		
FRE	202	Oxford	UG	Critical Anlys/French Culture	A	3.000	12.00		
POL	201	Oxford	UG	Political Thinking	A-	3.000	11.10		
POL	241	Oxford	UG	American Political System	A	3.000	12.00		
PSY	221H	Oxford	UG	Social Psychology	A-	3.000	11.10		

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	15.000	15.000	15.000	15.000	58.20	3.88
Cumulative:	31.000	31.000	31.000	30.000	116.40	3.88

Unofficial Transcript

Term: Fall Semester 2016-17

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing
Additional Standing: President's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R
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								End Dates
ART	188	Oxford	UG	Hst Of West Art/Renais-Modern	A	3.000	12.00	
PLW	201	Oxford	UG	Exploring Careers in LawII	A+	1.000	4.00	
POL	345K	Oxford	UG	Constitutional Conversation	A	3.000	12.00	
POL	359	Oxford	UG	U.S. Campaigns and Elections	A	3.000	12.00	
PSY	111	Oxford	UG	Introduction to Psychology	A	3.000	12.00	
PSY	112	Oxford	UG	Foundational Experiences	A	1.000	4.00	
PSY	251	Oxford	UG	Introduction To Biopsychology	A	3.000	12.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality GPA Points
Current Term:				17.000	17.000	17.000	17.000	68.00
Cumulative:				48.000	48.000	48.000	47.000	184.40

Unofficial Transcript

Term: Winter Term 2016-17

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates
POL	3400	Oxford	UG	Ohio Public Leader Fellow	X	0.000	0.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality GPA Points
Current Term:				0.000	0.000	0.000	0.000	0.00
Cumulative:				48.000	48.000	48.000	47.000	184.40

Unofficial Transcript

Term: Spring Semester 2016-17

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing
Additional Standing: President's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates
BLS	235	Oxford	UG	Mock Trial Practicum	A	1.000	4.00	
CHM	111	Oxford	UG	ChemistryIn Modern Society	A	3.000	12.00	
CHM	111L	Oxford	UG	ChemistryMod Soc Laboratory	A	1.000	4.00	
POL	345R	Oxford	UG	The First Amendment	A	3.000	12.00	
POL	362	Oxford	UG	Public Management, Leadership	A	3.000	12.00	
PSY	242	Oxford	UG	Abnormal Psychology	A	3.000	12.00	
STA	261	Oxford	UG	Statistics	A	4.000	16.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality GPA Points
Current Term:				18.000	18.000	18.000	18.000	72.00
Cumulative:				66.000	66.000	66.000	65.000	256.40

Unofficial Transcript

Term: Summer Term 2016-17

College: College of Arts and Science
Major: Political Science

Academic Standing: Good Standing

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	Revised
POL	426	Oxford	UG	Inside Washington	A	8.000	32.00		
					Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points
Current Term:					8.000	8.000	8.000	8.000	32.00
Cumulative:					74.000	74.000	74.000	73.000	288.40
									4.00
									3.95

Unofficial Transcript

Term: Fall Semester 2017-18

College: College of Arts and Science
 Major: Political Science
 Academic Standing: Good Standing
 Additional Standing: Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	Revised
BLS	342	Oxford	UG	Legal Environment of Business	B+	3.000	9.90		
POL	177	Oxford	UG	Independent Studies	A	1.000	4.00		
POL	377R	Oxford	UG	Independent Study- Research	A	2.000	8.00		
POL	459M	Oxford	UG	Political Psychology	A	3.000	12.00		
PSY	231	Oxford	UG	Developmental Psychology	A-	3.000	11.10		
PSY	293	Oxford	UG	Design & Analyses PSY I	A	4.000	16.00		
					Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points
Current Term:					16.000	16.000	16.000	16.000	61.00
Cumulative:					90.000	90.000	90.000	89.000	349.40
									3.81
									3.92

Unofficial Transcript

Term: Spring Semester 2017-18

College: College of Arts and Science
 Major: Political Science
 Academic Standing: Good Standing
 Additional Standing: Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	Revised
BLS	442	Oxford	UG	Bus Associations & Comm'l Law	B+	3.000	9.90		
POL	348	Oxford	UG	Gender Politics & Policy-U.S.	A+	3.000	12.00		
POL	377	Oxford	UG	Independent Studies	A	1.000	4.00		
POL	377	Oxford	UG	Independent Studies	X	1.000	0.00		
PSY	271	Oxford	UG	Perception, Action, Cognition	A-	3.000	11.10		
PSY	294	Oxford	UG	Design & Analyses PSY II	A	4.000	16.00		
					Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points
Current Term:					15.000	15.000	15.000	14.000	53.00
Cumulative:					105.000	105.000	105.000	103.000	402.40
									3.78
									3.90

Unofficial Transcript

Term: Fall Semester 2018-19

College: College of Arts and Science

Major: Political Science
Academic Standing: Good Standing

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R
BIO	244	Oxford	UG	Viticulture And Enology	X	3.000	0.00		
BLS	465	Oxford	UG	Ethics, Law & Business	A	3.000	12.00		
PLW	401	Oxford	UG	Preparing for a Career in Law	X	1.000	0.00		
PSY	326	Oxford	UG	PsychologyOf Women	A	3.000	12.00		
PSY	420	Oxford	UG	Seminar In Social Psychology	A-	3.000	11.10		
					Attempt Hours	Passed Hours	Earned Hours	GPA	Quality Points
Current Term:					13.000	13.000	13.000	9.000	35.10
Cumulative:					118.000	118.000	118.000	112.000	437.50

Unofficial Transcript

Term: Spring Semester 2018-19

College: College of Arts and Science
Major: Political Science
Academic Standing: Good Standing

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R
ART	145	Oxford	UG	Beginning Sewing I	A	2.000	8.00		
BLS	462	Oxford	UG	Estates, Wills & Trusts	A	3.000	12.00		
KNH	120T	Oxford	UG	Beginning T'ai Chi	X	2.000	0.00		
PSY	327	Oxford	UG	Social Cognition	A	3.000	12.00		
PSY	410J	Oxford	UG	Cap:Normal & Abnormal Behavior	A	3.000	12.00		
					Attempt Hours	Passed Hours	Earned Hours	GPA	Quality Points
Current Term:					13.000	13.000	13.000	11.000	44.00
Cumulative:					131.000	131.000	131.000	123.000	481.50

Unofficial Transcript

TRANSCRIPT TOTALS (UNDERGRADUATE) -Top-

Level Comments: Undergraduate Associate in POL Dept - Fall 2017 Undergraduate Associate in POL Dept - Spring 2018

	Attempt Hours	Passed Hours	Earned Hours	GPA	Quality Points	
Total Institution:	131.000	131.000	131.000	123.000	481.50	3.91
Total Transfer:	0.000	0.000	11.000	0.000	0.00	0.00
Overall:	131.000	131.000	142.000	123.000	481.50	3.91

Unofficial Transcript

RELEASE: 8.7.1

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www.lawrencelawoffice.com
lawrence@lawrencelawoffice.com

July 2, 2021

Re: Lindsey McCready

To Whom It May Concern:

It is with great enthusiasm that we send this letter of recommendation regarding Lindsey McCready. Ms. McCready worked for us at Lawrence Law Office as a Summer Associate/Law Clerk during the summer of 2020. Subsequently, because she was so competent and gracious, we utilized her services part time even after she returned to law school. She was very productive for us both working in our office and working at school in another state.

Regarding her traits, Lindsey is thorough, diligent, intelligent, enthusiastic, timely and has a great positive and pleasant demeanor. Regarding her skills, Lindsey has excellent organizational and writing skills, excellent legal research skills, and excellent communication and advocacy skills. She is extremely proficient with computer technology and has a great understanding of the trial advocacy system. She was exceptional at understanding and analyzing crucial legal concepts and issues.

Our legal practice consists of representing clients in various matters including corporate, business, real estate, and estate planning. Additionally, we have a litigation practice, which primarily includes hundreds of ongoing divorce and custody cases. It is an extremely busy and sophisticated practice. Lindsey was able, very quickly, to earn our trust to perform substantive tasks assigned to her with very little oversight and with very few corrections of her work needed. There is no doubt that her strong foundation and skillset are partially attributed to having a father who is an attorney, but it is clear that Lindsey also is very motivated to do good work and be a great attorney. It is remarkable, though, to find someone who also has great people skills and is wonderful with clients and co-workers.

Some of the substantive assignments she completed were drafting such as legal briefs, trial briefs, case summary letters, protection orders, and discovery requests. She also prepared questions and exhibits for depositions and trials.

Sincerely,

LAWRENCE LAW OFFICE

/s/: Rodd S. Lawrence
Rodd S. Lawrence

/s/: Linda J. Lawrence
Linda J. Lawrence

Erin J. Hendrickson
Professor of the Practice of Law

William & Mary Law School
P.O. Box 8795
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Phone: 757-221-7457
Fax: 757-221-3261
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February 10, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Re: Clerkship Applicant Lindsey McCready

Dear Judge Bates:

I write to strongly recommend Lindsey McCready for a judicial clerkship, as she is an especially hardworking and talented student.

I served as Lindsey's Legal Research & Writing professor during the fall semester of her 1L year at William & Mary Law School, where she impressed me with her work product, her level of professionalism, and her attention to detail. Lindsey's A-level grade in this course is particularly telling of her work ethic, as I taught my fall 2019 courses in an expedited manner, due to my impending parental leave. I packed 14 weeks of material into 10 weeks, adding in extra classes and assignments to make up for the lost time. Lindsey certainly rose to this challenge, completing all assignments on time and making a strong effort on each, despite the incredibly demanding schedule.

Whenever I met with Lindsey to discuss drafts of her work (as I do with all of my students), Lindsey was receptive to my feedback and eager to make changes to make her work product even stronger. She also demonstrated thorough engagement with the material by being able to easily recall and discuss the facts of our case as well as the relevant legal authorities (statutes and case law). As a result of her hard work, Lindsey's graded objective memo (analyzing a fictional recreational user defense) was among the strongest submissions in her class section. Lindsey successfully supported her analysis with both rule-based and analogical reasoning, and she effectively raised possible counter-points to her predictions, where appropriate. In fact, her ability to explore legal issues from all angles often allowed her to include reasoning that other students overlooked. Moreover, her writing style was clear, concise, and free of typos. Lindsey also demonstrated her attention to detail through her "Bluebooking." Lindsey's citations were the very strongest in her section, both in terms of substance and accuracy. Lindsey's subsequent work as a Senior Notes Editor for the *Journal of Race, Gender, and Social Justice* has even further developed her editing and citation skills.

In the classroom, Lindsey showed herself to be a true "team player," tackling group work and peer-editing exercises with enthusiasm. It was apparent that she was well-liked and respected by her classmates, who often sought out her opinion, and I was appreciative of the positive example she set for her peers. Lindsey was confident yet unpretentious during cold calls, and I could always count on her to volunteer when I presented a general question to the class.

For all of these reasons, I have no doubt that Lindsey would make an excellent clerk, and I very much hope that you will strongly consider her for this position. Please do not hesitate to contact me if you would like to discuss her skills or qualifications further.

Sincerely,

/s/

Erin J. Hendrickson
Professor of the Practice of Law

Erin J. Hendrickson - ejhendrickson@wm.edu - 757-221-7457

Paul Marcus
Haynes Professor of Law

William & Mary Law School
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February 10, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I understand that third year William & Mary law student Lindsey McCready has applied for a clerkship position with you. I believe Ms. McCready would do well as a law clerk.

Ms. McCready has taken several classes with me and has done well in them. She is a bright and diligent student who has made a real impact on our law school community. A very personable individual, she is an editor of our Journal of Race, Gender, and Social Justice and is active in our Health Law Society. Her undergraduate record is outstanding, graduating *magna cum laude* from Miami University in Ohio. She has had fine work experience while in law school, being employed at two Ohio law firms.

I recommend Lindsey McCready to you.

Yours truly,

/s/

Paul Marcus
Haynes Professor of Law

Paul Marcus - pxmarc@wm.edu - 757-221-3900

Lindsey K. McCready Writing Sample

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
DIVISION OF DOMESTIC RELATIONS

John Doe,	:	
Plaintiff,	:	
-v-	:	
Jane Doe,	:	
Defendant.	:	

DEFENDANT JANE DOE’S
MEMORANDUM IN SUPPORT OF MOTION FOR CONTEMPT

Defendant Jane Doe submits this Memorandum in Support of her Motion for Contempt filed on March 19, 2020.

I. Background

The marriage of Plaintiff-Husband John Doe and Defendant-Wife Jane Doe (the “Parties”) was terminated by order of the Court on March 13, 2017. In conjunction with the termination of their marriage, the Parties entered into a Separation Agreement, which was contemporaneously filed with the Court (“Separation Agreement”). As provided in Section 4 of the Separation Agreement, Plaintiff was to “pay directly to Wife 50% of Husband’s gross bonus or incentive payments received” as spousal support. (See page 3 of the Separation Agreement, attached as Exhibit A.) The terms “gross bonus” and “incentive payments” were not capitalized or otherwise defined in the Separation Agreement.

On January 1, 2018, prior to the filing of Defendant’s Motion for Contempt, Plaintiff became employed by Apple. Notwithstanding his new employment, Plaintiff failed to provide Defendant with spousal support as required by the Separation Agreement. As a result, Plaintiff owes Defendant for unpaid spousal support from January 1, 2018 to the present. In addition, Plaintiff

L. McCready Writing Sample

has not provided Defendant with documentation of any gross bonus or incentive payments, including any commissions, for calendar year 2018.

In 2019, Plaintiff received a total of \$89,082.60 in gross bonuses and incentive payments, variously characterized by Apple as “Commissions”, “Inspire Cash”, and “Spiff”. Despite receiving these gross bonuses and incentive payments, Plaintiff failed to pay Defendant the 50% to which she was entitled pursuant to the Separation Agreement. As a result, on March 19, 2020 Defendant, through counsel, filed a Motion for Contempt for Plaintiff’s failure to abide by the terms of the Separation Agreement regarding Spousal Support.

Following Defendant’s filing of her Motion for Contempt, Plaintiff paid Defendant a mere \$3,537.26 for what he alleged was 50% of his Inspire Cash and Spiff earnings in 2019 and the beginning of 2020, conceding that these payments fell under the categories of gross bonuses and/or incentive payments under the Separation Agreement. To this day, Defendant still refuses to pay spousal support for the commissions he earned in 2019 and the beginning of 2020, totaling \$97,478.44, asserting that the commissions were not a gross bonus or incentive payments pursuant to the Separation Agreement.

Defendant maintains that she is entitled to 50% of that amount, or \$48,739.22, plus 50% of any additional commissions Plaintiff has received since May 15, 2020.

II. Commission as Incentive Pay

Commissions received by Plaintiff from his current employer, Apple, constitute a gross bonus or incentive payment under the Separation Agreement. This outcome is based upon a plain reading of the Separation Agreement, legal definitions, and Ohio precedent.

Black’s Law Dictionary (“Black’s”) defines commission as “A fee paid to an agent or employee for a particular transaction, usu. as a percentage of the money received from the